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# **RAJASTHAN RULES COMPENDIUM**

( IN 16 VOLUMES )  
( 1949 TO 1967 )



*By*  
**VYAS & BAFNA**



# **BAFNA BOOK DEPOT**

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( 1949 to 1967 )

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*Rules and Notifications under*

HABITUAL OFFENDERS' ACT, 1953. THE RAJASTHAN  
( 9 OF 1953 ).

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# Rajasthan Habitual Offenders Rules, 1955.

Since the publication of the rules in Rajasthan Rules Compendium, certain amendments have been enforced through various notifications. The amendments have been incorporated in the body of the rules and the notifications, through which the amendments were enforced have been appended with the rules so as to be useful for the purpose of ready-reference.

Home (D) Department

## NOTIFICATION

Jaipur, December 27, 1958.

No. F. 19 (3)/ Home. D/ 58—In exercise of the powers conferred by section 8 of the Rajasthan Habitual Offenders Act, 1953 (Rajasthan Act No. IX of 1953), the Rajasthan Government hereby makes the following amendments in the Rajasthan Habitual Offenders Rules, 1955, namely:—

### AMENDMENTS

In the said rules:—

1. In Form 1, delete the words “date on which notice for registration published in the Rajasthan Rajpatra and part and page of Rajasthan Rajpatra.”

2. In Form 2, delete the words “forwarded to the District Magistrates for moving Government to notify the above named previous convicts as Habitual Offenders”.

By Order of the Governor,

SHYAM KARAN,

Deputy Secretary to the Government.

## HOME 'B' Gr, II DEPARTMENT

### NOTIFICATION

Jaipur, January 5, 1962.

No. F. 15 (1) Home/ B/Gr. II/61.—In exercise of the powers conferred by section 8 of the Rajasthan Habitual offenders Act, 1953 (Rajasthan Act No 9 of 1953), the State Government hereby makes the following amendments in the Rajasthan Habitual Offenders Rules 1955, Namely:—

### Amendments

in the said rules:—

1. Sub-rule (2) of rule 2 shall be deleted;

2. in rule 4 the words “referred to in sub-section (2) of section 3” shall be omitted;

3. in the heading of rule 6, for the word publication the word “service” shall be substituted;

4. in sub-rule (1), (2) and (3) of rule 6 and sub-rule (2) and (3) of rule 9, for the word “District Magistrate”, the words District Magistrate or any officer appointed by him in this behalf” shall be substituted;

5. For rules 7, the following Rule may be substituted, namely:—

1. Every person in respect of whom the notice under sub-section (3) of section 3 is issued may either orally or in writing, apply that his name be not entered in the register of habitual offenders.

2. The District Magistrate or any officer appointed by him in this behalf shall after giving the person making the application a reasonable opportunity is being heard and after such summary inquiry as he thinks necessary pass such orders on the application as he deems fit, recording his reasons.

3. If the application is allowed, the name of such person shall not be entered in the register of habitual offenders

4. If the application is rejected, such persons shall, if present, be informed accordingly, and a certified copy of the order shall, on application be supplied to him free of charge, within 10 days of the application.

5. If any person in respect of whom the notice under sub-section (3) of section 3 is served fails to attend on the date and the time and place fixed for hearing it shall be presumed that he has no application to show cause against his registration as habitual offender.

6. If such person, when required to furnish any information, fails to do so, the District Magistrate or any officer, authorised by him, in this behalf may, without prejudice to the provisions of Rule 9, draw such presumption from the failure as the circumstances of each case warrant.

6. in rule 8, sub rule (3) of Rule 9 and sub-rule (2) of Rule 10. for the word "Appeal," the word "Representation" shall be substituted wherever it occurs and for the word "Appellant" the word "Petitioner" shall be substituted wherever it occurs;

7. in rule 8 (1) for the figure "4" the figure and letter "5c" shall be substituted

8. (i) in sub-rule (1) of rule 9, for the words "finger impressions to be recorded" the words finger and plam impressions, f ot prints and photo, graphs to be taken as referred to in section 4 shall be substituted;

(ii) in sub-rule (2) of rule 9 and in form No. IV, for the word "finger prints" the words finger impressions and plam impressions, foot prints and photographs shall be substituted;

9. In sub-rule (1) of rule 10—

(i) after the words "a report to the District Magistrate for the" the words "re-registration and" shall be added;

(ii) and at the end of the said sub-rule so amended, "the foolstop" shall be omitted and the words "or re-registration" shall be added

10. In the headline of Rule 14, the word "etc." shall be added and for sub-rule (1) of rule 14, the following shall be substituted, namely:—

(1) Every person whose name is ordered to be entered in the register shall allow his finger and palm impressions, foot-print and photo graphs to be taken in quadruplicate, the finger prits, slip shall be in form No. 8.

(2) In sub-rule (2) of Rule 14 after the words "such person resides" the words "one copy be recorded in the Statc M. O. B" shall be substituted.

11. For the word "Notification" the words "or order in writing" shall be substituted in the following rules, namely:—

Rule 16, 20, 21, 22, 24 and 25;

12. In rule 27; the words "or notified under section 5" shall be deleted and after the words "recommendations to the Government" the "full stop" shall be omitted and the following words be added namely:—

"in respect of registered offenders restricted under section 6";

13. Rule 29 shall be deleted;

14. for the words "habitual offender" the words "registered offender" shall be substituted in the following rules and forms wherever they occur namely:—

12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, and Form Nos. 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 27 and 28'

15. for the word "Settlement", the words "corrective settlement" and for the word "Settlements" the words "corrective settlements" shall be substituted in the following Rules and Forms wherever they occur, namely:—

Rules 28 to 49; and

Form Nos. 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and,

16. in Form No. 2, for the words, "moving Government to notify the above named previous convicts as habitual offenders", the words "necessary action" shall be substituted'

17. in Form No. 3 —

(1) for the figure and words " 10 years" the figure and words "5 years" shall be substituted.

(2) for the words " your name has been entered in the list of habitual offenders prepared under the said Act" the words " and show cause why your name be not registered as a habitual offender" shall be substituted.

(3) for the words "finger prints", the words "finger prints, palm impressions, foot prints and photographars" shall be substituted.

(4) the words " if you fail to appear as above a warrant will be issued for your arrest" shall be deleted.

By Order of the Governor,

SHIV SHANKER

Secretary to the Government.

# RAJASTHAN Habitual Offenders Rules, 1955.

*Jaipur, September 28, 1955.*

No. F. 5 (6) Home.II/52.—In exercise of the powers conferred by section 8 of the Rajasthan Habitual Offenders Act, 1953 (Rajasthan Act IX of 1953), the Government of Rajasthan is hereby pleased to make the following rules, namely:—

## CHAPTER I PRELIMINARY.

1. *Short title, extent and commencement.*—(1) These rules may be called the Rajasthan Habitual Offenders Rules, 1955.

(2) They extend to the whole of Rajasthan.

(3) These rules shall come into force on the date of their publication in the Rajasthan Gazette.

### *Commentary*

These rules have been framed in exercise of the powers conferred by section 8 of the Rajasthan Habitual offender Act, 1953. The enabling section reads as under:—

(1) The State Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(a) the form and contents of the Register, the manner in which a notice under section 3 shall be published and given, the means by which the person whom it concerns shall be informed, the addition of names to the register and the erasure of names therein;

(b) the manner in which persons mentioned in section 5 shall report themselves, or notify their residence or any change or intended change of residence; or any absence or intended absence;

(c) the nature of the restrictions to be observed by habitual offenders whose movements have been restricted by notifications under section 6 and the place and time at which and the persons before whom they shall attend in accordance with sub-section (3) of that section;

(d) the circumstances in which habitual offenders shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted;

(e) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined, or the area to which their movements are restricted;

(f) the conditions to be inserted in any such pass in regard to—

(i) the places where the holder of the pass may go or reside;

(ii) the persons before whom, from time to time, he shall be bound to present himself; and

(iii) the time during which he may absent himself;

(g) the authority by whom and the manner in which the inquiry referred to in section 7 shall be held;

(h) the inspection of the residence and villages of habitual offenders;

- (i) the terms upon which habitual offenders may be discharged from the operation of this Act;
- (j) the management, control and supervision of industrial, agricultural or reformatory settlements;
- (k) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid and the disposal, for the benefit of such persons of the surplus proceeds of their labour;
- (l) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such settlement and the removal from it of such persons as it shall seem expedient to remove;
- (m) the periodical review of the cases of all persons—
  - (i) whose names are entered in the register for ascertaining their suitability for exemption from registration, or
  - (ii) who have been placed in an industrial, agricultural or reformatory settlement for ascertaining the desirability of removing or modifying the restrictions imposed on them; and
- (n) all matters which under this Act may be or have to be prescribed.

The contravention of these rule has been made punishable under section 10 of the Act which provides that:—

(1) Whoever being a habitual offender contravenes any rule made under section 8 shall be punishable,—

- (a) on a first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both, and
- (b) on any subsequent conviction, with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) Any person who commits or is reasonably suspected of having committed, an offence made punishable by this section may be arrested without a warrant by any officer-in-charge of a police station or by any police officer not below the rank of a Sub-Inspector.

2. *Interpretation.*—(1) In these rules, unless there is any thing repugnant in the subject or context—

- (a) "The Act" means the Rajasthan Habitual Offenders Act, 1953 (Rajasthan Act No. IX of 1953),
- (b) "Code" means the Code of the Criminal Procedure, 1898 (Act V of 1898),
- (c) "Form" means a form appended to these rules,
- (d) "Habitual Offender" has the meaning assigned to that expression in the Act,
- (e) "Register" means the register of habitual offenders kept and maintained under subsection (1) of section 3 of the Act,
- (f) "Section" means a section of the Act, and
- (g) "Superintendent of Police" means a District Superintendent of Police and includes an Assistant Superintendent of Police and a Deputy Superintendent of Police.

(2) [Omitted]

## CHAPTER II

### REGISTRATION

3. *Form of Register*—The Register shall be kept and maintained in form No. 1 with a separate sheet for each offender. An offender shall be assigned a serial number with the abbreviation of the name of the District as per appendix I.

#### *Commentary*

Sub-section (1) of section 3 of the Act requires that, (1) There shall be prepared, kept and maintained in the prescribed manner, a register of habitual offenders within each district, here, after in this Act, referred to as the register.

The form of register as required in this rule has been prescribed by virtue of provisions of this section.

4. *Preparation of list for purposes of Register*.—Every District Magistrate shall forthwith require the Superintendent of Police of his district to prepare and submit within six months of the commencement of these rules, the list of habitual offenders (within such district) and to state in respect of each habitual offender entered in such list whether any further information in relation to him is necessary for the purposes of preparing the register. The list shall be in form No. 2.

#### *Commentary*

Sub-section (2) of section 3 of the Act requires the District Magistrate to have the list of habitual offenders prepared. The rule prescribes the procedure for the preparation of such list.

5. *Form of notice to habitual offender*.—The notice referred to in sub-section (3) of section 3 shall be in form No. 3.

6. *Service of Notice*.—(1) At least 10 days before the date fixed for appearance, the notice in form No 3 shall be affixed on the notice board of the office of the District Magistrate [or any officer appointed by him in this behalf] issuing the same, and in a conspicuous place at every police station or out post in whose area the habitual offender resides. The contents thereof shall be proclaimed by beat of drum in the town or village in which the habitual offender resides.

(2) In the notice to be affixed on the notice board of the District Magistrate [or any officer appointed by him in this behalf] under sub-rule (1) it will not be necessary to mention the name of the habitual offender in the body of the notice. A common notice may be published for several habitual offenders, and their names and dates of conviction etc. may be noted below the notice, a note to that effect being made in the body of the notice.

(3) In addition to the publication of the notice in the manner prescribed by sub-rule (1), a copy thereof shall be served on the habitual offender concerned in the manner provided in the Code for the service of summonses. Where such service cannot be effected in spite of the best efforts of the serving officer the serving officer shall



affix the copy on a conspicuous part of the last known residence of the person to be served and shall make a report accordingly to the District Magistrate [or any officer appointed by him in this behalf] who may then declare the service to be sufficient or order service in such other manner as he may think fit in the circumstances of the case. Service under this sub rule shall in all cases be effected at least 10 days before the date fixed for appearance.

*Commentary*

Sub-section (3) of section 3 of the Act requires that,—(3) When such list has been prepared, the District Magistrate shall publish a notice in the prescribed manner, calling upon the persons whose names are entered in the list,—

- (i) to appear at a time and place specified therein,
- (ii) to make representations if they claim expunction of their names,
- (iii) to give such information as may be necessary for the purpose of preparing the register, and
- (iv) to allow their finger impressions to be recorded.

Rule 5 prescribes the form of this notice and rule 6 provides the manner in which such notice shall be published.

7. *Representations against registration.*—(1) Every person in respect of whom the notice under sub section (3) of section 3 is issued may either orally or in writing apply that his name be not entered in the register of habitual offenders.

(2) The District Magistrate or any officer appointed by him in this behalf shall after giving the person making the application a reasonable opportunity is being heard and after such summary inquiry as he thinks necessary pass such orders on the application as he deems fit, recording his reasons.

(3) If the application is allowed, the name of such person shall not be entered in the register of habitual offenders.

(4) If the application is rejected, such persons shall, if present, be informed accordingly, and a certified copy of the order shall, on application be supplied to him free of charge, within 10 days of the application.

(5) If any person in respect of whom the notice under sub-section (3) of section 3 is served fails to attend on the date and the time and place fixed for hearing it shall be presumed that he has no application to show cause against his registration as habitual offender.

(6) If such person, when required to furnish any information, fails to do so, the District Magistrate or any officer authorised by him, in this behalf may, without prejudice to the provisions of Rule 9, draw such presumption from the failure as the circumstances of each case warrant.

8. *Representations.*—(1) The [representation] referred to in section 5c shall be made in the form of written memorandum addressed to the Government. It shall be presented before the Home Secretary to the Government, or, if the [petitioner] so desires, before the District Magistrate whose order is sought to be challenged in [representation].

(2) Where the [representation] is presented before the District Magistrate, he shall forward the papers to the Government along with the memorandum of [representation] as soon as practicable.

(3) The memorandum of [representation] shall be presented either by the [petitioner] in person or by his authorised representative. An [representation] received by the post or in any other manner shall be filed without any action.

(4) If on any date fixed for the hearing of [representation], the [petitioner] does not appear in person or through an authorised representative, the [representation] may be dismissed for default. Such dismissal shall be set aside if the [petitioner] makes an application for that purpose within 30 days of the order of dismissal, and shows that he was prevented by sufficient cause from appearing. Such application may be presented to the Home Secretary to the Government or to the District Magistrate, who shall forward it to the Government.

*Commentary.*

Section 4 of the Act confers on a habitual offender a right of appeal against the order of the District Magistrate given under section 3 of the Act. The rule prescribes the procedure in this regard. The appeal under section 4 lies to the State Government but sub-section (2) of section 4 of the Act requires the State Government to appoint an Officer for hearing the appeal. The rule appoints the Home Secretary to the Government as such Officer.

9. *Supply of information and finger prints.*—(1) A person to whom a notice under sub-section (3) of section 3 has been issued, shall, if the notice so requires, attend on the date and at the time and place mentioned in the notice and allow his [finger and palm impressions, foot prints and photographs to be taken as referred to in section 4] and also supply such information as may have been mentioned in the notice.

(2) Where such persons fails to attend as aforesaid, and the District Magistrate [or any officer appointed by him in this behalf] considers it necessary that the [finger impressions and palm impressions, foot prints and photographs] should be taken and the information obtained, he may issue a warrant in form No. 4 for the arrest of such person. The warrant shall be signed by him, shall bear the seal of his court and may be executed and shall be in all respects governed by the provisions of sections 75 to 86 of the Code of Criminal Procedure, 1898 (Act V of 1898), and a bond issued under such warrant shall also be governed by the same provisions as are contained in the Code for bonds for appearance before a court.

(3) Where an [representation] under section 4 has been filed to the knowledge of the District Magistrate [or any officer appointed by him in this behalf] he shall not issue a warrant under sub-rule (2) until the [representation] is disposed of.

*Commentary*

The District Magistrate can, under sub-section (3) of section 3 of the Act, require a person to attend on the date and at the time and place mentioned in the notice and allow his thumb impression to be recorded and supply the requisite information. The rule 9 prescribes the procedure which is required

to be followed of the failure of a person, served with a notice under sub-section (3) of section 3, to attend, as required.

Section 75 to 86 of the Act referred to in this rule provide different methods in which a warrant of arrest shall be executed.

10. *Additions to the register*—(1) After the final preparation of register under sub-section (5) of section 3, the Superintendent may from time to time make a report to the District Magistrate for the [re-registration and] addition in the register of the name of a person residing within his jurisdiction, stating the grounds for such addition [or re-registration].

(2) Upon receipt of such report, the District Magistrate shall follow as nearly as may be the same procedure as is laid down in rules 5, 6, 7 & 9 and an [representation] against the order of the addition of a name shall also be governed by rule 8.

11. *Erasures from the register*—(1) The Superintendent of Police shall, before the end of December every year, review the cases of persons entered in the register placed in his keeping under sub-section (5) of section 3 and shall report to the District Magistrate the names of any persons that may be recommended for being cancelled from the register. The grounds of such recommendation shall be stated in writing.

(2) If the District Magistrate considers such grounds to be sufficient, he shall order the cancellation recommended and the name of such person shall be cancelled accordingly and an intimation of the fact shall be given to the person whose name is so cancelled.

(3) Any person whose name is entered in the register may apply to the District Magistrate for cancellation of his name therefrom, specifying in writing the grounds for such application. If the District Magistrate is satisfied as to the sufficiency of such grounds he shall order the cancellation prayed for, subject to the provisions of sub-rules (4) & (5).

(4) No application under sub-rule (3) shall be granted unless a notice has been given to the Superintendent of Police who may contest the application, either personally or through the Prosecuting Inspector or Prosecuting Sub-Inspector.

(5) No application under sub-rule (3) shall be entertained unless a period of 12 months has elapsed. Since the date fixed in the notice issued under sub-section (3) of section 3, or since the date of any order passed on an application for expunction of name or a previous application for cancellation of registration, whichever was the last date.

(6) An application under sub-rule (3) shall not be rejected unless the applicant has been given a reasonable opportunity of being heard.

#### *Commentary*

Sub-section (5) of section 3 of the Act requires that,—The register, when finally prepared, shall be placed in the keeping of the Superintendent of Police of the district who shall from time to time report to the District Magistrate any alterations which ought in his opinion to be made therein either by way of addition or erasure.

The rules 10 & 11 prescribe the manner in which these additions and erasures can be made.

Sub-rule (3) of Rule 11 gives a right to a person whose name is entered in the register to apply for cancellation of his name therefrom and sub-rules [3], 5] & [6] provide the procedure according to which this application shall be dealt with.

12. *Change of District by habitual offender.*—Where a habitual offender whose name is entered in the register changes his residence permanently by going to reside in another district, an intimation thereof in form No. 5 shall be sent to the Superintendent of Police of the new district by the Superintendent of Police of the district in which his name has been registered. The Superintendent of Police of the new district shall take steps to get the name of such habitual offender added in the register of his district, following the procedure prescribed by rule 10. An intimation shall also be sent to the finger print bureau in form No. 6.

### CHAPTER III.

#### FINGER PRINTS, PHOTOGRAPHS AND IDENTIFICATION RECORDS

##### *Commentary*

The Rajasthan Habitual Offender Act, 1953 is meant to provide for surveillance and control of Habitual Offenders in the State. The State Government is authorised to make rules to carry out the purposes and objects of the Act. The rules contained in this Chapter are meant to provide for effective surveillance and control of habitual offender.

13. *Personal sheet.*—A personal sheet shall be maintained for every habitual offender whose name is contained for the time being in the register, and it shall be maintained in triplicate. Signature or left hand thumb impression, and, if practicable, a photograph of the habitual offender concerned shall be obtained for the personal sheet. The duplicate shall be sent to the Station House Officer within whose jurisdiction the habitual offender resides and the triplicate shall be sent to the D. I. G. P., C. I. D. Jaipur. The personal sheet shall be in form No. 7.

NOTE:—While sending the list in form No. 2, the Superintendent of Police should see that the information required for filling up the personal sheet is entered on column No. 12 of the list in form No. 2. Where such information has already been obtained, it need not be so entered. The District Magistrate, while issuing a notice in form No. 3 should also see that the information required by the Superintendent of Police is mentioned in the notice.

14. *Finger print slips etc.*—(1) Every person whose name is ordered to be entered in the register shall allow his finger and palm impressions, foot-prints and photographs to be taken in quadruplicate; the finger prints, slip shall be in form No. 8.

NOTE.—For use of force, see rule 18 (2) below.

(2) One copy of the finger print slip in form No. 8 shall be maintained in the District Police Office, one copy shall be kept at the police station within the limits of which such person resides [one copy be recorded in the State M. O. B.] and one copy shall be

sent to the finger print bureau, which shall acknowledge its receipt in form No. 9. This receipt shall be pasted in the register in form No. 1.

NOTE.—The finger print bureau should be informed in case of change or change of residence—rule 12.

15. *Identification record*.—An identification record shall also be maintained for every habitual offender whose name is for the time being contained in the register. This shall be in form No. 10 and shall where practicable also contain a photograph of the habitual offender concerned.

16. *Identity card*.—(1) Where [order in writing] under section 5 or section 6 has been issued in respect of a habitual offender he shall be supplied with an identify card in form No. 11 in which shall be entered the particulars provided in that form. A photograph (where practicable) and finger prints of the habitual offender concerned shall also be obtained for the purposes of this form.

(2) The identity card shall be produced by the habitual offender for examination or inspection when required by any police officer or Magistrate or any other person authorised by the District Magistrate in this behalf, or by any village watchman or village headman.

(3) Any loss or damage to the identity card shall be immediately reported by the offender to the nearest police station and he shall also make an application to the Superintendent of the Police concerned for the issue of a fresh identity card, without delay. If he so desires at the time of the presentation of the application, he shall be informed in writing of the number in the inward register at which the application has been entered. The application shall be presented to the Station House Officer of the Police Station who shall forward it to the Superintendent of Police.

(4) After making such enquiries as may be necessary the Superintendent of Police shall issue another identity card marked duplicate.

(5) If an identity card is spoiled or has become worn out the duplicate shall be prepared and issued by the Superintendent of Police, on an application by the habitual offender concerned.

(6) A fee of Re.1/- may be charged for the issue of a duplicate identity card where the original has been lost or where a duplicate is issued for a spoilt or worn out card within six months. No fee shall be charged for the issue of a duplicate identity card in any other case.

(7) Where a duplicate identity card is lost or damaged or becomes spoiled or worn out, the same procedure as is prescribed above for the issue of duplicate shall be followed, but the card so issued shall be marked "Second duplicate".

17. *Photographs.*—(1) Photographs of the habitual offender shall wherever practicable be obtained in the following, namely :—

- (a) The register in form No. 1.
- (b) The personal sheet in form No. 7.
- (c) The identification record in form No. 10; and
- (d) The identity card in form No. 11.

(2) The habitual offender concerned shall allow himself to be photographed for the purpose mentioned above.

18. *Finger prints when and how to be taken.*—(1) Finger prints of a habitual offender are to be obtained in the following :—

- (a) The finger print slip in form No. 8 in triplicate; and
- (b) The identity card in form No. 11.

(2) When the person concerned refuses or resists, it shall be lawful to take such finger prints by the use of such force as may be necessary for the purpose.

19. *Bodily measurements.*—For the purposes of the filling up of the personal sheet in form No. 7, the identification record in form No. 10 and the like, a habitual offender whose name is for the time being contained in the register shall allow his body to be measured and bodily mark to be noted. But no woman shall be subjected to such proceedings except by a woman and with strict regard to decency.

## CHAPTER IV

### RESTRICTIONS ON HABITUAL OFFENDERS (REGARDING OFFENDERS NOT PLACED IN SETTLEMENT).

#### *Commentary*

The rules contained in this part have been framed with a view to put into effect the requirements of sections 5 and 6 of the Act which read as under :—

5. The State Government may, by notification in the Rajasthan Gazette, issue in respect of any habitual offender or any class of habitual offenders either or both of the following directions namely, that such offender or every member of such class of offenders shall, in the prescribed manner;

- (a) report himself at fixed intervals;
- (b) notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence.

6. (1) If the State Government considers that it is expedient that any habitual offender or any class of habitual offenders should be :—

- (a) restricted in his or their movements to any specified area, or
- (b) settled in any place of residence,

the State Government may, from time to time, by notification in the Rajasthan Gazette declare that such offenders or class of offenders, as the case may be, shall be restricted in his or their movements to the area specified in the notification or shall be settled in the place of residence so specified, as the case may be.

(2) Before making any such declaration, the State Government shall consider the following matters, namely,—

- (i) the nature and the circumstances of the offence in which the individual offender or class of offenders is or are believed to have been concerned;
- (ii) whether the individual offender or class of offenders follows or follow any lawful occupation and whether such occupation is a real occupation or merely a pretence for the purpose of facilitating crimes;

- (iii) the suitability of the restriction area or of the place of residence, as the case may be, which it is proposed to specify in the notification; and
- (iv) the manner in which it is proposed that the person or persons to be restricted or settled shall earn their living within the restriction area or in the place of residence and adequacy of the arrangements which are proposed therefor.

(3) Every habitual offender whose movements have been restricted or who has been settled in a place of residence in pursuance of any notification under this section shall attend at such place and at such time and before such person as may be prescribed in this behalf,

(4) Every habitual offender whose movements have been restricted under this section shall, if so required by a police officer not below the rank of a Sub-Inspector, allow his measurements or photograph to be taken in the prescribed manner.

The State Government is authorised under section 8 to provide for or regulate :—

- (b) the manner in which persons mentioned in section 5 shall report themselves, or notify their residence or any change or intended change of residence; or any absence or intended absence;
- (c) the nature of the restrictions to be observed by habitual offenders whose movements have been restricted by notifications under section 6 and the place and time at which and the persons before whom they shall attend in accordance with sub-section (3) of that section;

Rules in this Chapter provide for and regulate the aforesaid matters. These rules, however, are not applicable to the persons who have been placed in any settlement under section 7 of the Act read with the rules contained in Chapter V of these rules.

20. *Reporting of habitual offenders.*—(1) Every habitual offender in respect of whom [order in writing] under section 5 has been issued and is in force shall, if required by such [order in writing] to report himself at fixed intervals, so report himself personally on the 1st and 16th day of each calendar month, or at such longer or shorter intervals as may be mentioned in [order in writing], to the nearest police station or out-post concerned at any time between 7 A. M. and 9 P. M.

(2) The fact of each such attendance together with the time thereof shall be noted on the identity card of the habitual offender (form No. 11) at the appropriate place. Where the Police Station or out-post at which the habitual offender reports is not the Police Station or out-post within whose area he resides, information shall be given of such attendance to the Police Station or out-post of his residence.

(3) If the habitual offender is prevented by disease or another unavoidable cause beyond his control from reporting himself as required by sub-rule (1) on any day, he shall, within a week thereof, or within a period equal to one half of the interval fixed for reporting by the [order in writing] applying to him, (whichever is the shorter period) either obtain permission in writing from the officer in charge of the police station or out-post or the village watchman or village headman, or attend at the Police Station or out-post concerned. A permission given under this sub-rule shall not be granted for more than 7 days.

(4) Where a habitual offender desires to be excused from the attendance, by an advance permission to be granted before the date or dates of attendance, he shall make an application for that purpose, with the grounds of his application, to the Station House Officer who may grant such permission for not more than 15 days at a time. Where the applicant desires permission for a period exceeding 15 days the application shall be forwarded to the Superintendent of Police of the district, who may grant permission for not more than six months at a time.

(5) All permissions granted under sub-rules (3) and (4) as well as the fact of late attendance, shall be noted on the identity card in form No. 11.

21. *Superintendent of Police to send reports for suggested restrictions.*—The Superintendent of Police concerned shall from time to time send to the District Magistrate reports in form No. 12 regarding habitual offenders in respect of whom [an order in writing] under section 5 or section 6 is desired. The District Magistrate shall, after such enquiry, if any, as he may think necessary, make his recommendations to the Government.

22. *Notification of change of residence.*—(1) Every habitual offender in respect of whom [an order in writing] under section 5 has been issued and is in force shall, if required by such [an order in writing] to notify the place of his residence and any change or intended change thereof or any absence or intended absence therefrom, communicate to the officer-in-charge thereof, or out-post concerned, the place of his permanent residence which shall be mentioned in his identity card in form No. 11.

(2) Such habitual offender shall, every month, submit a written report to the effect that the permanent place of his residence, continues to be the same as is mentioned in his identity card. Such report may be presented personally or may be sent to the Police Station or out-post concerned by post or otherwise. The report shall be sent so as to reach the police station or out-post concerned not later than the 7th day of each calendar month.

(3) Any such habitual offender desiring to leave such place of residence either permanently or temporarily shall send an intimation in writing along with his identity card to the Officer-in-charge of the Police Station or out-post concerned, mentioning therein :—

- (a) the date on which he intends to leave such residence,
- (b) the place where he is going,
- (c) the reason for such change or absence,
- (d) in the case of absence, the period thereof,
- (e) the route by which he intends to proceed,
- (f) the time that is likely to be taken in travelling, and
- (g) if he is to return, the route and the time he will take for the return-journey.



(4) The particulars mentioned in the intimation shall be noted on the identity card. In the case of an intimation for leaving the place of residence permanently, information shall also be given to the officer-in-charge of the police station or out-post within the limits whereof the new place of residence is situated.

(5) No such habitual offender shall, without good and sufficient cause ;—

(a) deviate from the route or exceed the time specified in the intimation sent by him, whether in going to or in returning from the place of destination, or

(b) be absent for a longer period than that specified therein.

NOTE—Where the change of residence involves a permanent change of district, the provisions of rule 12 shall also be observed.

23. *Change of residences and formalities in the course of journey.*—(1) Every habitual offender sending an intimation of leaving his place of residence under sub rule (3) of rule 22 shall, on reaching the destination for a temporary stay, immediately report himself in person to the officer-in-charge of the police station or out-post concerned and produce before him his identity card in form No. 11, which shall be initialled by such officer in token of such arrival.

(2) Such offender shall, on return to his original place of residence report himself in person to the officer-in-charge of the police station or out-post concerned, who shall note the fact on the identity card. The habitual offender shall produce his identity card for that purpose.

(3) Where such habitual offender has left the place of his residence permanently for taking up residence in another district, he shall report himself in person to the officer-in-charge of the police station or out-post within which his new place of residence is situated. This shall be done immediately on reaching his destination and the identity card in form No. 11 shall also be produced. The Officer to whom the report is made shall keep a record thereof, take steps for registration in his district through the Superintendent of Police and procure a fresh identity card for the habitual offender. The habitual offender shall then surrender his old identity card in exchange for the new identity card.

(4) Where a habitual offender, leaving his place of residence temporarily, or permanently; over-stays the period of absence mentioned in his intimation for any good and sufficient cause he shall forthwith send a report thereof in writing to the officer-in-charge of the police station or out-post within the limits whereof he happens to be.

24. (1) *Restrictions on movements.*—Every habitual offender in respect of whom a [order in writing] has been issued under section 6 and is in force shall, if by such [order in writing] his movements have been restricted to any specified area not leave such area except under a permit.

(2) The Superintendent of Police shall be the final authority to grant such permit, but the Station House Officer or Circle Inspector may grant such permit for a period not exceeding 15 days at a time, under intimation to the Superintendent of Police.

(3) The permit to be issued under this rule shall be in form No. 13.

(4) The officer so granting a permit in form No. 13 may, in addition to the conditions mentioned in the form, impose any special conditions to be observed by the habitual offender in connection with the period of permission, the route to be followed and the purpose for which the permit is to be used.

(5) A habitual offender to whom the permit has been granted under this rule shall use it only in the manner and subject to the conditions specified therein and shall personally surrender it immediately after his return to the police station or out-post of the place of his permanent residence.

(6) The fact of the grant of a permit under this rule shall be entered on the identity card (form No. 11) of the habitual offender. The fact of the issue of the [order in writing] under section 6 should also be noted on the identity card.

25. *Roll Call.*—(1) Any Police Officer not below the rank of a Sub-Inspector, the village watchman or the village headman or in villages where there is no headman or watchman, such person as may have been authorised by the Superintendent of Police of the district may hold a roll call of the habitual offenders whose movements have been restricted by a [order in writing] under section 6. Such roll calls shall not be held at intervals shorter than those fixed by the Superintendent of Police by a general or special hold.

(2) Notwithstanding anything in sub-rule (1), a Police Officer not below the rank of Sub-Inspector, or in the case of villages, not below the rank of head constable may hold a special roll call at any time and on any date, for special reasons. A reasonable notice shall be given before such special roll call is held.

(3) It shall be the duty of the habitual offenders whose movements have been restricted under section 6 to attend the place appointed for the roll call and to answer to their names when the roll is called, unless prevented from doing so by illness or other lawful cause.

26. *Register of restrictions.*—A register in form No. 14 shall be maintained at the District Police Headquarters and at every police station for habitual offenders residing within their respective jurisdiction whose movements have been restricted under section 6 within a specified area.

27. *Periodical review of habitual offenders placed under restriction.*—The Superintendent of Police shall, every year in December, review the cases of habitual offenders placed under restriction under section 6 and shall make a report to the District Magistrate, who shall forward his recommendations to the Government [ in respect of registered offenders restricted under section 6. ]

28. *Chapter not to apply for settlements*—Nothing in this Chapter applies to habitual offenders placed in a settlement, who are governed by Chapter V of these rules.

## CHAPTER V.

### Settlements and Restrictions on Habitual Offenders Placed Therein

#### *Commentary*

The rules in this Chapter have been framed for putting into effect the provisions of section 7 which reads as under.—

7. (1) The State Government may establish industrial, agricultural or reformatory settlements and may order to be placed in any such settlement any class of habitual offenders in respect of whom a notification has been issued under sections 6:

Provided that no such order shall be made unless the necessity for making it has been established to the satisfaction of the State Government after an inquiry held by such authority and in such manner as may be prescribed.

(2) The State Government or any officer authorised by it in this behalf may at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement :—

(a) to be discharged ; or

(b) to be transferred to some other settlement.

The State Government is authorised under section 8 of the Act to make rules to provide for or to regulate the matters referred to in clauses (e) to (m) of sub-section (2) of section 8 of the Act. These clauses have already been referred to in the Commentary under rule 1.

29 [ omitted ].

30 *Management etc. of Settlements*—(1) The management control and supervision of every settlement established under section 7 shall, subject to the provisions of these rules and to the general control of the Deputy Inspector General of Police, C.I.D. Rajasthan Jaipur, be vested in the Settlement Manager, who shall be appointed by the appropriate appointing authority from police officer not below the rank of Sub-Inspector.

(2) The Settlement Manager shall be responsible for the proper management of the settlement and for the well being of the inmates thereof.

31 *Register of habitual offenders in settlement.*—(1) In every settlement, a register of inmates shall be maintained in form No. 15, in respect of habitual offenders placed therein or transferred thereto under section 7.

(2) All changes in these registers shall be intimated by the Settlement Manager to the Superintendent of Police and to the Officer-in-charge of the Police Station or out-post having jurisdiction.

(3) The names of habitual offenders who have been permanently discharged or transferred from the settlement under section 7 shall be removed from the register.

32. *Other registers to be maintained in a settlement.*—In addition to the register of inmates referred to in rule 31, the following further registers shall be maintained by the Settlement Manager in every settlement:—

- (1) attendance register in form No. 16;
- (2) register of leave and pass holder in form No. 17;
- (3) register of births in the settlement, in form No. 18;
- (4) register of deaths in the settlement in form No. 19;
- (5) register of habitual offenders absent without leave or out of view in form No. 20;
- (6) register of habitual offenders transferred or removed from the settlement, in form No. 21.
- (7) register of punishments in form No. 22;
- (8) register of visitors to habitual offenders, in form No. 23;
- (9) register of official inspections and visits to the settlement (No form prescribed);
- (10) register of non-official visitors to the settlement (No form prescribed); and
- (11) register of cattle-wealth of habitual offenders (No form prescribed). A separate page should be opened for each habitual offender.

33. *Entries to be made on the identity card (form No. 11).*—In respect of all habitual offenders in the settlement the following facts should be entered in the identity card (form No. 11):—

- (1) date of entry into the settlement;
- (2) work allotted;
- (3) punishments, if any, inflicted;
- (4) notes regarding any pass of absence, rewards, pass for taking employment for residing outside the settlement, issued to the offender;
- (5) conduct during each half year;
- (6) other such remarks, if any;
- (7) date of leaving the settlement by discharge or transfer or any similar order.

34. *Transfers from settlements.*—(1) The officer authorised to order the transfer of any habitual offender from one settlement to another in Rajasthan shall be the Deputy Inspector-General of Police, C.I.D., Rajasthan, Jaipur.

(2) Every transfer from the settlement, ordered under section 7 shall be entered in the register in form No. 21 and shall also be noted in the appropriate place in the register in form No. 15. Inti-

mation shall also be sent to the Superintendent of Police and to the Officer-in-charge of the Police Station or out-post concerned, as required by rule 31, sub-rule (2). A note shall also be made on the identity card in form No. 11.

35. *Absence from settlement prohibited except under pass.*—

(1) No habitual offender placed in a settlement under section 7 shall absent himself from a settlement except under a pass or discharge licence granted under these rules.

(2) No such habitual offender shall utilise any pass or discharge licence issued under these rules except for the purpose for which it was issued and in accordance with its tenor.

36. *Temporary absence from settlement.*—(1) A pass for temporary absence from the settlement may be granted to a habitual offender by the Settlement Manager for a period not exceeding 15 days. Leave of absence for any longer period may be granted by the Superintendent of Police on the recommendation of the Settlement Manager.

(2) The pass to be granted under this rule shall be in form No. 24.

(3) In addition to the general conditions mentioned in form No. 24, the Settlement Manager or the Superintendent of Police (as the case may be) may incorporate such special conditions as may be deemed proper.

(4) The route to be taken by a habitual offender for journey both ways shall be specified in the pass in form No. 24 and he shall travel by no other route.

(5) On return to the settlement, the habitual offender shall report himself immediately to the Settlement Manager and shall hand over the pass back to him.

(6) Night halts in the case of a journey under a pass in form No. 24 shall be reported by the habitual offender to the Officer-in-charge of the Police out-post concerned or village watchman or village headman.

(7) If the pass holder overstays the period for which he has been allowed to remain absent from his settlement owing to illness or other sufficient cause, he shall forthwith inform the Officer-in-charge of the Police Station or out-post within the limits whereof he happens to be, in writing, and such officer shall immediately send an intimation thereof to the Settlement Manager.

(8) The Settlement Manager shall not allow more than 10 per cent of the habitual offenders in the settlement to be absent therefrom on leave at any one time without the sanction of the Superintendent of Police.

(9) Any pass granted under this rule may at any time be withdrawn by the officer granting it or by the District Magistrate. If the pass-holder has already left, intimation shall forthwith be sent to him of such withdrawal.

37. *Permanent passes for a person employed outside the settlement.*—(1) Where a habitual offender in a settlement has been allowed by the Settlement Manager to take up regular daily employment outside the limits of the settlement, a permanent pass in form No. 25 shall be granted to him by the Settlement Manager. The pass shall specify the hours of each day between which absence from the settlement is permitted.

(2) The pass issued under this rule shall be used only in accordance with its tenor and for the employment for which it was issued. It shall be surrendered to the officer-in-charge of the settlement if and when the employment for which it was granted ceases.

(3) A pass issued under this rule may at any time be cancelled by the Superintendent of Police or District Magistrate, if, after giving the habitual offender an opportunity of hearing, he is satisfied that the pass has been misused.

38. *Permanent pass for residing outside the settlement.*—A permanent pass for residing outside settlement may be granted as a reward under rule 42.

39. *Daily attendance and roll call.*—(1) Every habitual offender placed in a settlement shall attend daily before the Settlement Manager or before a person authorised by him at 7 A. M. in the morning and 9 P. M. at night.

(2) Such attendance shall be recorded in the register in form No. 16.

(3) The Settlement Manager may exempt any habitual offender from attendance, either on specified occasions or general, or may permit him to attend at a time different from that prescribed by this rule.

(4) Nothing in this rule applies to habitual offenders absent from a settlement under a pass or discharge licence issued under these rules.

40. *Work in settlements.*—In a settlement where agricultural or industrial occupations are provided, the habitual offenders placed therein shall carry out such work as may be allotted by the Settlement Manager. The terms of remuneration, the hours of work and the distribution of the land shall be fixed by the District Magistrate, subject to the special or general orders of the Government.

NOTE:—(1) While fixing the terms of remuneration, the District Magistrate should also provide for increased wages as reward under rule 42 (1) (ii).

NOTE:—(2) The Settlement Manager may, for special reasons exempt any habitual offender from working for the whole or any part of the day.—See rule 44 (1).

41. *Discipline in settlements.*—(1) Any habitual offender placed in a settlement who commits a contravention of these rules or any pass issued thereunder or refuses to obey any reasonable order given by the Settlement Manager or endeavours to escape

from the settlement, shall, without prejudice to the provisions of section 10 of the Act, be liable to any one or any more of the following penalties, to be inflicted by the Settlement Manager :—

- (a) a formal warning;
- (b) additional or more arduous work;
- (c) reduced wages or loss of wages for work done;
- (d) withholding or cancellation of leave of absence or leave from work, granted or about to be granted.

(2) No punishment shall be inflicted under this rule without giving the habitual offender concerned a reasonable opportunity of hearing.

(3) All orders of punishment passed under sub-rule (1) by the Settlement Manager shall be liable to revision by the District Magistrate.

NOTE :—All punishments must be entered in the register in form No. 22.

42. *Rewards in settlement.*—(1) The following rewards may be granted by the Settlement Manager to habitual offenders for good conduct :—

- (i) exemption from daily attendance;
- (ii) increased payment for work;
- (iii) liberal grant of passes of leave;
- (iv) allotments of lands for separate cultivation; and
- (v) promotion to position of responsibility.

(2) The Superintendent of Police may, in consultation with the Settlement Manager, grant to a habitual offender in a settlement, who has given unmistakable evidence of good conduct and sustained industry for a sufficient period, a pass in form No. 26, permitting him to reside outside the settlement but within the district, for the purpose of earning his livelihood. Where such habitual offender wishes to reside in a district other than that in which the settlement is located, the Superintendent of Police may grant him, in consultation with the Manager of the Settlement, and with the consent of the Superintendent of Police of the District in which the habitual offender wishes to reside, a pass of that nature. Such pass shall also be in form No. 26, with a suitable note thereon.

(3) A pass in form No. 26 shall not be granted unless the Settlement Manager has secured suitable employment for the habitual offender or placed him in circumstances which will enable him to earn his livelihood honestly.

(4) The Superintendent of Police may, without assigning any reason revoke a pass granted under this rule and require the offender to re-enter the settlement. On being informed of such revocation, the habitual offender shall re-enter the settlement.

43. *Maintenance of disabled offenders.*—Habitual offenders in a settlement who are permanently disabled from being employed on work shall be maintained by the State.

44. *Temporary leave from work.*—(1) The Settlement Manager may, subject to the provisions of sub-rule (3), give temporary leave, that is, exemption from work, to a habitual offender for not more than 3 whole days in a month. Where leave is to be granted for only a part of a day, he may grant such leave to a habitual offender not more than 5 times in a month.

(2) Where leave from work is applied for by a habitual offender and the leave to be granted is beyond the powers of the Settlement Manager as defined by sub-rule (1), the case shall be referred to the Superintendent of Police concerned, who may grant such leave subject to the provisions of sub-rule (3).

(3) The total number of habitual offenders on leave under this rule on a particular day shall not exceed 5 per cent of the total number of habitual offender in the Settlement.

45. *Surplus proceeds.*—(1) The surplus proceeds of the work of a habitual offender shall be placed in the Post Office Savings Bank account in the name of the habitual offender concerned, or if he is a minor, then in the name of his guardian.

(2) The pass-book of the account mentioned above shall be kept in the custody of the Settlement Manager.

(3) The Settlement Manager may, on his authority, permit withdrawals of not more than Rs. 50/- at a time from the account of the habitual offender in the Savings Bank. Withdrawals for a higher amount shall be allowed only with the sanction of the Superintendent of Police.

(4) When a habitual offender is discharged from the settlement, the Pass Book should be returned to him. If he dies before discharge, it should be delivered to this legal heir or heirs.

46. *Discharge from settlement.*—(1) The officer authorised under section 7 of the Act to order discharge of a habitual offender from a settlement shall be the Deputy Inspector-General of Police, C.I.D., Rajasthan, Jaipur, acting in consultation with the Manager of the Settlement and the Superintendent of Police.

(2) The fitness for discharge of every habitual offender placed in a settlement shall be examined, ordinarily, after he has resided in a settlement for a period of 3 years, and thereafter before the 1st of July every year, by the Settlement Manager in consultation with the Superintendent of Police having jurisdiction over the settlement.

(3) If, during the period of his residence in a settlement, a habitual offender has been sentenced to imprisonment by a criminal court, the period of 3 years aforesaid shall be calculated from the date of expiry of such sentence or the last of such sentences, as the case may be.

(4) No habitual offender shall be discharged from the settlement unless—

(a) his conduct has been uniformly good and he has had no disciplinary punishment during the 3 years immedia-



tely before his discharge, and he has had no conviction in a criminal court for an offence involving moral turpitude during the said period, and

(b) he is able to maintain himself and his dependants by honest means outside the settlement.

(5) The Deputy Inspector-General of Police, C.I.D., may, for special reason in consultation with the Superintendent of Police. The District Magistrate and the Settlement Manager, discharge a person from a settlement within a shorter period than that prescribed by sub-rules (2), (3) and (4).

(6) Habitual offender discharged from a settlement shall ordinarily be on probation for such period as the said Deputy Inspector-General of Police, C.I.D., may direct and shall during the period of probation reside in such place as the latter may direct.

(7) The period of probation shall not ordinarily exceed two years, but may be extended by the said Deputy Inspector-General of Police, C.I.D., for sufficient reasons to be recorded.

(8) The discharge licence shall be in form No. 27. The discharged offender shall, during the period of probation, continue to maintain good conduct and shall comply with the conditions entered in the discharge licence. For breach of this sub-rule, he may be replaced in the settlement by the said Deputy Inspector-General of Police, C.I.D., after a reasonable opportunity has been given to him of being heard.

(9) A habitual offender discharged from the settlement, who completes the period of his probation satisfactorily, shall be discharged finally from the settlement.

47. *Temporary pass for persons suffering from disease.*—(1) A habitual offender suffering from leprosy, tuberculosis, venereal disease, insanity, or other contagious or infectious disease, may be granted a temporary pass in form No. 28 for the purpose of enabling such offender to reside in an asylum, hospital, sanatorium, nursing home or similar institution. Such a pass may contain a condition that the holder thereof shall reside at the institution concerned for such time as may be specified therein or until further orders, and shall not leave the institution except with the sanction of such person as may be mentioned in the pass.

(2) The habitual offender shall, on the expiry of the period of his pass or on receipt of the further order, as the case may be return to the settlement.

(3) All orders passed by the Superintendent of Police under sub-rule (1) shall be subject to revision at any time by the District Magistrate.

48. *Inspection of settlements.*—(1) A settlement may be inspected at any time by the Deputy Inspector-General of Police, C.I.D., Rajasthan, Jaipur, the District Magistrate, the Superintendent of Police, or by any person authorised in that behalf by any of them.

(2) All inspections of a settlement shall be recorded in a register to be kept for the purpose, as provided in rule 32 and a copy of the notes made therein shall be forwarded to the Deputy Inspector-General of Police, C.I.D. Rajasthan, Jaipur.

49. *Periodical review of offenders in settlements.*—As provided for in rule 46, sub-rule (2), a periodical review of habitual offenders in all settlements shall be made regularly. This review should ordinarily take place in the month of June every year.

## CHAPTER VI—MISCELLANEOUS

50. *Inspection of residences of habitual offenders.*—Any Magistrate or any Police Officer not below the rank of a Sub-Inspector may, at any time, enter and inspect the residence of a habitual offender, whether in a settlement or elsewhere, where he has reason to believe that the provisions of the Act, these rules or any pass, permit or discharge, licence issued under these rules have been or are about to be contravened. Reasonable notice shall be given to females (not being habitual offenders in respect of whom the inspection is to be made), who live in apartments solely meant for such females, to leave such apartments.

### *Commentary*

The provision of this rule is meant to ensure the compliance with the provisions of the Act and the rules made thereunder. The inspection under this rule is intended for detecting any contravention of law.

51. *Exemptions.*—(1) In addition to exemptions expressly provided for by any of these rules, the District Magistrate may exempt any habitual offender, not being a habitual offender placed in a settlement from all or any of the obligations imposed upon him. Such exemption may be conditional or unconditional. Such exemption may be varied or cancelled by the District Magistrate and such variation or cancellation may be made with or without notice to the habitual offender.

(2) If a habitual offender is old, sick or infirm or is otherwise incapable of committing crime, and if he has continued to be of good conduct for a period of 3 years after his last release from Jail, the District Magistrate may, after obtaining a report from the Superintendent of Police, modify to the advantage of the habitual offender or cancel any obligation imposed upon the habitual offender by the Act, these rules or any pass or permit issued under these rules. Such modification or cancellation may be withdrawn at any time by the District Magistrate after giving the habitual offender notice to show cause why it should not be withdrawn.

(3) All orders passed under sub-rule (1) or sub-rule (2) shall be communicated to the habitual offender concerned and shall take effect from the time of such communication. The order should be noted on the identity card (Form No 11), also.

### *Commentary*

Clause (m) (i) of sub-section (2) of section 8 of the Act requires the periodical review of the cases of all persons whose names are entered in the register

for ascertaining their suitability for exemption from registration. A habitual offender can also be exempted from other obligations imposed upon him by the Act and the Rules. Rule 51 deals with these exemptions,

52. *Duplicates*.—Any pass, permit or discharge licence issued under these rules, if lost, spoiled or becoming worn out, may be replaced by a duplicate. The provisions of sub-rules (2), (3), (4), (5), (6) and (7) of rule 16 shall, as far as may be, apply in respect of the issue of duplicate in such cases.

By Order  
S. D. UJWAL

*Secretary to the Government.*

FORM No. 1.

(See Rule 3)

REGISTER OF HABITUAL OFFENDEES.

[Omitted]

District

- (a) Serial number (with letters to denote district).
- (b) C.I.D. Gang number and S. No. If any.
- (c) Name with aliases.
- (d) Father's name/Husband's name.
- (e) (i) Residence,  
(ii) Police Station.  
(iii) Tehsil  
(iv) District.
- (f) Caste and occupation.
- (g) Description (age and other particulars).
- (h) Nature of restrictions imposed.

Left-thumb impression of the  
Habitual offender.

Space for F.P.B. acknowledgement slip  
and F.P.B. Serial No.

Space for Photograph and Serial No.

S. No.	Name under which convicted.	Station	Crime No.	Section of Law.	Distt. and Court.
1	2	3	4	5	6

Date and Calendar No.	Section.	Sentence	Jail No.	Witness to prove.
7	8	9	10	11

## FORM No. 2

( See Rule 4 )

List of persons liable To Registration as Habitual Offenders

District					Station		
No.	Name.	Father's Name./ Husband's Name	Caste.	Village.	Sex.	Age.	Offence
1	2	3	4	5	6	7	8

Court.	C.C.No.	Sentence date of conviction.	Whether any further in- formation is required from the offender, if so, give details.
9	10	11	12

NOTE: -Conviction quashed on appeal or revision not to be included.  
Station

Date \_\_\_\_\_

To the District Magistrate.

District

Superintendent of Police,  
District

FORM No. 3

( See Rule 5 )

Notice to Habitual Offender under Section 3 (3) of the Rajasthan Habitual Offenders Act, 1953.

Whereas there is reason to believe that you, .....  
S/o .....residing in village ..... .. under police  
Station ..... District .....are a Habitual Offender  
within the meaning of Section 2 (1) (a) of the Rajasthan  
Habitual Offenders Act (Rajasthan Act No. IX of 1953), as you  
have been sentenced to a substantive term of imprisonment in a  
continuous period of 5 years on not less than 3 occasions for one  
or another of the offences under the Indian Penal Code set forth in  
the Schedule annexed to the said Act, the convictions being dated  
.....and... ..and..... .. and .....; [and show  
cause why, your name be not registered as a habitual offender.]

You are hereby required to appear before me on.... .. at .....  
A.M. and submit your representation if you desire expunction of  
your name.

You are, further directed to appear before me on the said date and at the said time for the purpose of:—

- (a) having your [finger prints, palm impressions, foot prints and photographs] taken and
- (b) supplying the information required from you, as detailed below:—

—————

in the annexed statement,

Station  
Dated.

Seal of the Court.

District. Magistrate.

FORM No. 4

[See Rule 9 (2)]

Warrant for the arrest of a Habitual Offender who has failed to appear  
To

(Name and designation of the Police-Officer or other person or persons who is or are to execute the Warrant).

WHEREAS... ..son of ... .. resident of... .. a habitual offender as defined by Section 21 (a) of the Rajasthan Habitual Offenders Act, 1953, was required by notice issued under Section 3 (1) of the aforesaid Act to appear before me and allow his [finger impressions and palm impressions, foot prints and photographs] to be taken and to supply certain information in connection with his registration as habitual offender under the aforesaid Act;

AND WHEREAS he has failed to do so;

AND WHEREAS I consider it necessary that this [finger impressions and palm impressions, foot prints and photographs] should be taken\* and the information obtained.\*

This is to authorise and require you to arrest the said..... son of.... .. resident of .. .. on the .. .. day of .. .. to bring him before me for the purposes mentioned above.

Given under my hand and Seal of the Court this ..... day.... ..of.... ..

Seal.

(Signature).

\*Strike off words which are unnecessary.

FORM No. 5

(See Rule 12)

Intimation of change of District

(To be prepared on change of district by habitual offender).

District.

1. Serial Number.
2. C.I.D Gang Member, if any.
3. Name with aliases.

4. District to which forwarded.

5. Brief history of Habitual Offender.

*Signature of Superintendent of Police.*

FORM No. 6

(See Rule 12)

INTIMATION TO FINGER PRINT BUREAU ON CHANGE OF DISTRICT BY  
HABITUAL OFFENDER.

*District No.*

*Name.*

The habitual offender specified above, in respect of whom the notification under section 3 (3) of the Rajasthan Habitual Offenders Act, 1953, was published at page..... of Part..... of the Rajasthan Rajpatra, dated.. .., and having finger print bureau Serial No....., has changed his residence permanently to..... District .....

*District Superintendent of Police,  
District.....*

*Place.*

*Date.*

*To*

The Finger Print Bureau.

FORM No 7.

(See Rule 13)

PERSONAL SHEET

(In Triplicate)

*District No.*

*Photograph of the habitual offender.*

Date of notification in the Rajasthan  
Rajpatra and part and page of the  
Rajasthan Rajpatra.

Name with Alias.

Father's/Husband's Name.

Age/Sex.

Caste.

Occupation.

Village.

Police Station.

Tehsil.

District.

Name of identifying witnesses.

Identification Marks and descriptive  
particulars.

Nature of restriction imposed.

Personal sheet prepared by.....on.....

Finger prints as per separate finger print slip taken by.....

on.....

Photograph taken by.....on.....

Signature of person who prepared Personal Sheet.

Date .....

Place.....

Signature and left hand thumb impression of the habitual offender.

Relations.

Places visited and likely to be visited.

Details of Convictions (In Block letters).

No.	District.	Police St.	Crime with No. and Date.	Court.	Place.	C. D.	Date.	Section.	Remarks.	Sentence.	Modus Operandi.
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### FORM NO. 8

(See Rule 14 (1))

#### FINGER PRINT SLIP OF HABITUAL OFFENDER.

Form 8. RAJASTHAN STATE Finger Print Slip  
 Habitual Offender No : (With District Initial)... C.I.D.  
 Gang No. and Sl. No. (9 : Any).....Caste.....  
 Village.....Name.....  
 Alias.....Father's/Husband's Name .....

Classification No.....

F.P.B. Serial No.....

P.S ..... District ..... State ..... Photograph No.....

1. Right Thumb 2. R. Index 3. R. Middle 4. R. Ring 5. R. Little  
 S.D. CLF.

6. Left Thumb 7. L. Index 8. L. Middle 9. L. Ring 10. L. Little  
 S. D. CLF.

Four Fingers taken  
 Simultaneously.

AMPUTATIONS.  
 Left Thumb/Right Thumb

Four Fingers taken  
 Simultaneously.

Classified by... Verified by.....

Searched by.....Photographed by.....

F. Prints taken by.....Rank.....

Date.....

Offender's Signature.

*Modus Operandi* of  
THE OFFENDER  
*Convictions.*

1	2	3	4	5	6	7
S. No.	Name under which convicted.	District and Court.	Date	Section	Sentence	Jail Admission No. and Name of Jail.

FORM NO. 9

(See Rule 14 (2))

RECEIPT TO BE SENT BY FINGER PRINT BUREAU.

Received the Finger Prints of

No. of District.

Finger Print Bureau No.

*Signature (with date) of the Officer  
In-charge of F.P.B.*

To

The Superintendent of Police,

.....District

NOTE:—On receipt of this the Superintendent of Police, should paste it in the Register of Habitual Offenders.

RAJASTHAN STATE size 8" by 8"

FORM No. 10

(See Rule 15)

IDENTIFICATION RECORD OF HABITUAL OFFENDER

PHOTOS  
(3.5" by 2.5")

Name.....Alias.....

Father's Name .....Caste.....

husband's

Village .....P.S.....

District .....State.....

Occupation .....

F.P.B. Serial No.....

Photograph No.....

Photograph taken by.....

Persons who can identify.....

.....

.....

DESCRIPTION

Colour.....Complexion.....Age.....

Born.....

(City or Village) (P.S.) (District) (State)

CHECK RELEVANT MATTER

*Appears:—* Slim Medium Stout Drug-User Face Pockmarked.

*Shoulders:—* Straight Round stooped Hunchbak is right or Left-handed.



- Eyes:—* Black Blue Grey Hazel Brown Maroon Wears Glasses  
Crosseyed: Right or Left Eye Artificial: Right or Left  
Eye Blind: Right or Left Eye.
- Hair:—* Sandy Blonde Brown Red Auburn Black Partially Grey  
Grey Wavy Curly Kink Partially Bald Bald Wig Drey:  
Brown Black Growth: Thick Thin Cut: Short-Clipped  
Dressed (Long Short) Uncut: "Puttedar" Partition:  
(Right Left Centre) Uncut Sikh "Jatadhari" Touch:  
Soft Hard Straight.
- Nose:—* Small Large Pug Straight Hooked Pierced: Right or  
Left Side or Centre.
- Ears:—* Small Large Medium Flaring Closed to Head Cauliflo-  
wer Right or Left Ear Both Deaf : Right or Left Ear  
Both Pierced : Right or Left Ear Both Pierced : Right  
(Lower Upper) Left (Lower Upper).
- Beards:—* Colour.....Long : ( Combed Upwards  
or Down-wards) Short Growth : Thick Thin Timmed  
Edward Fashion Frech-cut Mulla Fashion.
- Mustache:—* Colour.....Long Short Stubby Turnedup Ends  
Fashion : Curzon Mulla Talwar-cut "Galmuchha".
- Speech:—* Fast Talker Slow Talker Stammers Accent Kind.....  
Soft voice Gruff voice \*Effeminate Voice Tongue-tied.  
DISTINCTIVE MARKS. (Note below)  
All scars, Tatoo marks, Missing teeth, Gold teeth: Upper  
or Lower Jaw; If lame, the cause; Amputations,  
Bow-legged Knock-kneed, Pigeon-Toed, Twitching of  
Features:—

---

Mannerism & Peculiarities.

*MODUS OPERANDI OF THE OFFENDER*      *ASSOCIATES AND THE RELATIVES OF THE OFFENDER*

CONVICTIONS

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Name under No. which con- victed	District and Court	Date	Section	Sentence	Jail admis- sion No. and Name of Jail.
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FORM NO. 11  
(See Rule 16 (1))

## IDENTITY CARD OF HABITUAL OFFENDER

## INSTRUCTIONS.

1. The habitual offender shall immediately report the loss of this card to the nearest police-station and obtain from the Station House officer the Duplicate.
2. The habitual offender shall give his card for examination or inspection when required by any Police Officer, Magistrate or any other person authorised by the District Magistrate in this behalf.
3. The habitual offender shall carefully preserve the card and shall produce the same for recording his movements to the Station House Officer concerned whenever required.
4. The identification Card will be personal property of the habitual offender.
5. Here enter any Restrictions imposed under Section 5 and 6 of the Rajasthan Habitual Offenders Act, 1953.

*Losses of identity card to be noted here with dates.*

NOTE:—Sufficient number of blank pages should be attached to this card for making entries regarding reporting, leave etc.

Number.	District.	Name of notified offender.	Father's/Husband's Name.	Caste.	Village.	P. S. District.	Age.	Description.	Finger prints.
<i>Signature of Superintendent of Police issuing with Designation and date.</i>									
Photo 2' x 2"									
<i>Record of movements.</i>									

Date. Village & Police Stations. Signature of Station House Officers.

## FORM No. 12

(See Rule 21)

## REPORT FOR RESTRICTIONS ON HABITUAL OFFENDERS AND ATTENDANCE

The habitual offenders whose names and other particulars are restricted to the area noted against each furnished here-under may be \_\_\_\_\_ required to report themselves in column ( ) \_\_\_\_\_ at first intervals and intimate change of residence.

No	Name.	Father's/ Husband's Name.	Village.	P.S.	District.	Area within which to be restricted, (if such a restriction is desired.)	If reporting at fixed inter- vals desired, state interval.
1	2	3	4	5	6	7	8

Superintendent of Police.  
District.

## FORM No. 13. (in triplicate)

(See Rule-24 (3))

Permit to leave area within which a habitual offender's movements are restricted.

Counter Foil No. 1:—(To be sent at once to the Station House Officer of the Station in the limits of which the habitual offender intends to go ).

Counter foil No. 1:—PERMIT.

A habitual offender intends leaving this place on.....  
to go to \_\_\_\_\_

to reside in  
in the limits of

and has been permitted to do so.

POLICE STATION

Date.

Village.

Signature.

Designation.

\*The entry not required may be struck off.

(To be printed on the reverse).

- (i) Habitual offender number.
- (ii) Whether leaving the village permanently and if not the purpose of absence.
- (iii) Route and the time he will take in going to his destination.
- (iv) Route and the time he will take in returning to his village.

NOTE:—In the case of a habitual offender permanently leaving the village in which he is residing, item (iv) need not be filled in.

FOIL TO be given to the habitual offender permitted to go on a journey or to change his place or residence temporarily or permanently.

A habitual offender intends leaving this place on  
in the limits of

Date.

Village.

\*to go to

to reside in

Police Station. He has been permitted to do so.

Signature.

Designation.

NOTE:—1 (a) The individual receiving this permit should report in person at the intervals fixed to the village headman, or the members of the village Panchayat, the Station House Officer or the Police Officer or other person authorised in lieu of the village headman as the case may be and obtain his signature on the pass.

(b) On return to his village, he should hand over the permit forthwith to the Issuing Authority.

2. The issuing authority should then verify the entries in the pass and file it with the original. In case of any suspicious entries, it should be immediately reported to the Station House Officer concerned.

\*The entry not required may be struck off.

.....  
(To be printed on the reverse)

- (i) Habitual offender No.
- (ii) Whether leaving the village permanently and if not the purpose of absence.
- (iii) Route and the time he will take in going to his destination.
- (iv) Route and the time he will take in returning to his village.
- (v) Signature of authority to whom report is made.

Date of reporting	Hours of reporting	Village of reporting	Signature of the village Headman, the Station House/Officer, or the police Offender or other person authorised in lieu of the village headman, as the case may be or the member of the village panchayat.
1	2	3	4

(vi) One clear mark of identification of the notified offender.

NOTE:—In the case of a habitual offender permanently leaving the village in which he is residing item (iv) need not be filled in.

Counter foil No. 2 :— To BE RETAINED AT P. S.

### PERMIT

A habitual offender intends leaving this place on  
\*to go to

.....

to reside in  
in the limits of

Date.

Police Station, and has been  
permitted to do so.

Village.

Signature.

Designation.

\*The entry not required may be struck off.

To be printed on the reverse of this foil.

(i) Habitual offender number.

(ii) Whether leaving the village permanently, and if not the purpose of absence.

(iii) Route and the time he will take in going to his destination.

(iv) Route and the time he will take in returning to his village.

(v) Date and hour of return to the village.

NOTE:—In the case of a habitual offender permanently leaving the village in which he is residing items (iv) and (v) need not be filled in.

### FORM NO. 14

(See Rule 26)

#### REGISTER OF HABITUAL OFFENDERS WHOSE MOVEMENTS HAVE BEEN RESTRICTED

No.	No. of habitual offender	Name	Father's/Husband's Name	Vill- age	Area within which res- tricted	Re- marks
1	2	3	4	5	6	7

### FORM NO. 15

(See Rule 31 (1))

#### REGISTER OF INMATES (HABITUAL OFFENDERS) IN THE SETTLEMENT AT— WHERE LIVING

District.	Personal Number in Habitual Offenders Register.	Name with aliases.	Father's name.	Husband's name.	Age and Sex.	Date of admission into the settlement.	Present in settlement.	Out of view.	In Jail.	Permitted to live outside the settlement and the period for which such permission is granted.	Date of removal from settlement.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13

## FORM NO. 16

(See Rule 32)

Attendance Register of Habitual Offender.....

Settlement....., months of....., 1953.

District number and letter and personal number.

Name.	1.	2.	3.	4.	5.	6.	7.
	8.	9.	10.	11.	12.	13.	14.
	15.	16.	16.	18.	19.	20.	21.
	22.	23.	24.	25.	26.	27.	28.
	29.	30.	31.	Remarks.			

## FORM NO. 17

(See Rule 32)

## REGISTER OF HABITUAL OFFENDERS GRANTED LEAVE AND PASSES

Distt. No.	No. and letter and personal No.	Name.	Period of leave, from settlement granted or of permission to live outside.	Actual date of return.	Re-marks
			From .. To		
	1.	2	3	4	5 6

## FORM NO. 18

(See Rule 32)

## REGISTER OF BIRTHS IN.....SETTLEMENT

S. No.	Date of Birth.	Names of parents of the child with number and distinct letter and personal number.	Sex of Child.	Name of the Child (To be entered when child is named).	Remarks.
1	2	3	4	5	6

## FORM NO. 19.

(See Rule 32).

## REGISTER OF DEATHS IN.....SETTLEMENT.

S. No.	Date of occurrence	Name of the deceased, with No. & Letter of district and personal No. if any.	Names of parents or husband with No. & letter of district & personal No. in case of unregistered persons	Sex	Age	Cause of death	Remarks
1	2	3	4	5	6	7	8

## FORM NO. 20

(See Rule 32.)

REGISTER OF HABITUAL OFFENDERS ABSENT WITHOUT LEAVE OUT  
FROM THEIR.....THE SETTLEMENT.

No. & Distt. & Letter Personal No. No.	Name	Date of ab- sence	Date of re- turn	Date on which arrested	Action taken against the absentee	Re- marks
1	2	3	4	5	6	7

## FORM NO. 21.

(See Rule 32.)

REGISTER OF HABITUAL OFFENDERS TRANSFERRED OR REMOVED  
FROM.....SETTLEMENT

S. Distt. No. & Letter and per- sonal No.	Name	Sex	Age	Date of admi- ssion	Date of remo- val	Reasons for remo- val	Autho- rity order- ing the re- moval	Re- marks.
1	2	3	4	5	6	7	8	10

## FORM No. 22

(See Rule 32.)

REGISTER OF PUNISHMENT OF HABITUAL OFFENDERS IN THE  
..... SETTLEMENT.

S. No.	Distt. No. & letter and personal No.	Name	Offence	Details of punish- ment	Date of re-punish- ment	Re- marks
1	2	3	4	5	6	7

## FORM NO. 23.

(See Rule 32.)

REGISTER OF PERSONS VISITING HABITUAL OFFENDERS IN  
.....SETTLEMENT.

S. No.	Name & number of habi- tual of- fender	Name of visitor	Father's Name	Village from which arrived	Date of arrival	Date of Depar- ture	Purpose of Visit	Remarks
1	2	3	4	5	6	7	8	9

## FORM NO. 24. (in triplicate)

(See Rule 36 (2)).

## TEMPORARY PASS FOR LEAVING SETTLEMENT.

Counterfoil No. 1.

(To be retained by the Settlement Manager).

Leave pass from.....Settlement.

District Number and letter.

Personal number.

Name.

To

Via

To return on.

Marks of identification.

Left thumb impression.

Signature.

FORM No. 24 (Continued)

(To be sent to Station House Officer).

Counterfoil No. 2.

Leave pass from.....Settlement.

District Number and letter.

Personal Number.

Name.

To

Via

To return on.

The grant of this pass is subject to the following conditions:—

- (1) The holder of the pass shall travel by the route specified therein and by no other route.
- (2) The holder shall report himself to the head-man of every village in which he halts over night and obtain his signature on the reverse. If there is a Police Station at the place where he halts, he will report there and not to the Village head-man.
- (3) On arrival at his destination, the holder shall at once report himself to the village head-man who will report the arrival to the officer-in-charge of the Police Station within the limits of which the village lies and note this fact on the reverse of the pass.
- (4) The pass should be shown to any Magistrate or Police Officer (not below the rank of a S.I. or Station House Officer) who demands its production.
- (5) On return to the settlement, the pass should be immediately handed over to the Manager.

Breach of any of the conditions will render the offender liable to punishment.

Marks of identification,

Left thumb impression.

## MOVEMENTS.

Name of Police \_\_\_\_\_ Date \_\_\_\_\_ Signature of Station House Officer  
 Station or Village Arrival Departure or the head-man of the route  
 villages specified in the pass.

## (BACK)

Name of Police \_\_\_\_\_ Date \_\_\_\_\_ Signature of Station House  
 Station or Village Arrival Departure Officer or the head-man of  
 the route villages specified  
 in the pass.



## FORM No. 24—(Contd.)

(Foil To be given to habitual offender).

Leave pass from.....Settlement.

District Number and Letter.

Personal Number.

Name.

To

Via

To return on.

The grant of this pass is subject to the following conditions:—

- (1) The holder of the pass shall travel by the route specified therein and by no other route.
- (2) The holder shall report himself to the head-man of every village in which he halts over night and obtain his signature on the reverse. If there is a Police Station at the place where he halts, he will report there and not to the Village head-man.
- (3) On arrival at his destination, the holder shall at once report himself to the Village head-man who will report the arrival to the officer-in-charge of the Police Station within the limits of which the village lies and note this fact on the reverse of the pass.
- (4) The pass should be shown to any Magistrate or Police Officer (not below the rank of a S.I. or Station House Officer), who demands its production.
- (5) On return to the settlement, the pass should be immediately handed over to the Manager.

Breach of any of the conditions will render the offender liable to punishment under section 10 of the Rajasthan Habitual Offenders Act, 1953.

Marks of identification.

Left thumb impression.

## (BACK)

## MOVEMENTS.

Name of P.S. or  
village.

Date

Arrival. Departure

Signature of Station House  
Officer or the head-man of  
the route via. Village specified in the pass.

## FORM NO. 25.

(See Rule 37 (1) ).

PASS TO LEAVE.....SETTELEMENT FOR PURPOSES OF EMPLOYMENT.

District No. and letter of the habitual offender.....

Personal No. of the habitual offender .....

Name of the Habitual Offender... ..

Authorised to go to Nature and place of employment.....

To be returned daily by:.....

Marks of identification.

Signature of Officer granting the pass.

This pass is subject to the following conditions:—

- (1) The holder of the pass shall travel only by the route mentioned above.
- (2) The holder shall return to the Settlement daily by.....
- (3) The pass should be shown on demand to any Magistrate or to any Police Officer (not below the rank of Sub-Inspector or Station House Officer).
- (4) The pass holder should not utilise it for any purpose other than the purpose for which it is issued.

Breach of these conditions renders the pass-holder liable to punishment.

### FORM NO. 26.

(See Rule 42 (2) and (3))

#### SPECIAL PASS TO RESIDE OUTSIDE SETTLEMENT.

1. District Number and letter.
2. Personal number of the notified offender.
3. Name.
4. To reside in
5. For the period from

to.....  
until further orders.

Left thumb impression:

The grant of this pass shall be subject to the condition that the persons to whom this pass is granted shall reside at the place specified above and shall not leave such place without the written permission of his employer or his employer's agent or of the District Superintendent of Police of.....

NOTE:—If from sickness or other cause he wishes to leave the said place, he shall apply to the District Superintendent of Police of..... for permission to return to the settlement at.....

This clause is applicable only to those who leaving the settlement for definite employment elsewhere.

### FORM NO. 27.

(See Rule 46 (8))

#### DISCHARGE LICENSE OF HABITUAL OFFENDER.

.....(Name) is discharged from the.....  
Settlement, subject to the following conditions:—

- (1) He/She should reside for.....year at.....  
or such other.....Dy. Inspector General  
of Police, C.I.D., my direct.
- (2) During this period he/she should be of good conduct,  
and should obey such conditions as may be laid down  
by the District Magistrate;
- (3) (other conditions).

Failure to comply with any of the conditions mentioned above shall render the holder of this license liable to be recommitted to a settlement.

## FORM NO. 28

(See Rule 47.)

PASS FOR PERSON SUFFERING FROM DISEASE TO LEAVE  
..... SettlementDistrict No. & Letter of the habitual  
offender.

Personal No. of the Habitual Offender.

Name of the Habitual Offender.

Authorised to go to.

Nature of disease.

To return by .....

special conditions.

Marks of Identifications.

*Signature of Officer granting  
pass.*

This pass should be used strictly in accordance with the conditions mentioned above, and for the purpose for which it is issued. The pass-holder should return to the Settlement by the time mentioned above (unless the pass is renewed in the meantime.)

Breach of the above, or overstay, renders the pass holder liable to punishment.

*Signature of the Officer grant-  
ing the pass.*

## APPENDIX I

(See Rule 3)

<i>Name of District or Area</i> 1	<i>Abbreviation assigned</i> 2
(1) Ajmer District.	RJ-AJM
(2) Alwar "	RJ-ALW
(3) Banswara "	RJ-BAN
(4) Barmer "	RJ-BAR
(5) Bharatpur "	RJ-BHA
(6) Bhilwara "	RJ-BHIL
(7) Bikaner "	RJ-BIK
(8) Bundi "	RJ-BUN
(9) Chittorgarh "	RJ-CHIT
(10) Churu "	RJ-CHU
(11) Dungarpur "	RJ-DUNG
(12) Ganganagar "	RJ-GANGA
(13) Jaipur "	RJ-JPR
(14) Jaisalmer "	RJ-JSL
(15) Jalore "	RJ-JAL
(16) Jhalawar "	RJ-JLW
(17) Jhunjhunu "	RJ-JHJU
(18) Jodhpur "	RJ-JDR
(19) Kotah "	RJ-KTH
(20) Nagaur "	RJ-NGR
(21) Pali "	RJ-PAL
(22) Railway Police area	RJ-RLWP
(23) Sawai Madhopur District	RJ-SWM
(24) Sikar "	RJ-SIK
(25) Sirohi "	RJ-SRH
(26) Tonk "	RJ-TNK
(27) Udaipur "	RJ-UDR

By Order of the Governor,  
C. S. GUPTA,  
Secretary to the Government.

# RAJASTHAN HABITUAL OFFENDERS RULES, 1955

Home (B) Gr. Department  
Jaipur, December 19, 1966

Notification F. 3 (4) HB/Gr. II/66.—In exercise of the powers conferred by Section 8 of the Rajasthan Habitual Offenders Act, 1953 (Rajasthan Act 9 of 1953), the State Government hereby makes the following amendment to the Rajasthan Habitual Offenders Rules, 1955, namely:—

## AMENDMENT

For the existing Form No. 8 appended to the said Rules, the following form shall be substituted, namely :—

Form No. 8

[See Rule 14 (1)]

Indian Union

Rajasthan

## FINGER PRINT RECORD SLIP

Classification No.

--

*Right Hand Rolled Prints*

Thumb	Index	Middle	Ring	Little

*Left Hand Rolled Prints*

Fold

Fold

Thumb	Index	Middle	Ring	Little

Fold:—Plain Prints of Index, Middle, Ring and Little fingers taken simultaneously

Left	Right
------	-------

Signature of Magistrate/Gazetted Officer/Officer, in verification of the fact that the prints above were taken before him and that they are the impressions of the convict named on the reverse.

Date..... Signature & Rank of Officer.....

Result of search ref: Traced/Untraced. Date .. Name of F. P.B.....  
 Impression taken by.... Rank..... Date..... Place..... District.....  
 Tested by..... Rank..... Date.... Place..... District.....

Classified by.....	Date.....	<b>THUMBS SIMULTANEOUSLY</b>	
Tested.....	Date.....	Left	Right
Indexed by.....	Date.....		
Recorded by.....	Date .....		

D. S. No./P. R. No. Bureau No. 

Male	Identified
Female	Unidentified

 Duplicate slips sent to : C.F.P.B.  
 (2).....(2).....(3).....

(1) Full Name with aliases.....  
 (in block letters) Age Village District  
 (2) Father's or Husband's.....  
 Name with aliases Religion Police Station State

Serial No.	Name under which convicted	District	Court	G. R. Case No. Court Case No.	Date of conviction	Section	Sentence	Jail and Admission No.	Police Station Case No. and date	Identifying Officer	Remarks
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											

Certified that the impression, personal details and convictions are correctly taken and recorded.

Signatures in full & rank of officer preparing the slip District  
 ... .. Date .....

Certified that the impressions have been tested by testing officer personal details verified and the convictions with Police, Jail and Judicial records.

Signatures in full of Prosecuting Officer/Sub-Inspector District....Date....

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*Rules and Notifications under*

HIGH COURT ORDINANCE, 1949. THE RAJASTHAN  
( 15 OF 1949 )

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## High Court Rules, 1952:--

Rajasthan High Court Rules, 1952 were printed in volume IV of Rajasthan Rules compendium. Subsequent to that certain amendments, substitutions and additions have been made therein through various notification issued by the High Court. Those notifications are described below:—

S. No.	Notification No.	Date of Issue.
(A)	1/S.R.O.	February 28, 1959.
(B)	2/S.R.O.	April 2, 1959.
(C)	7/S.R.O.	August 24, 1959.
(D)	10/S.R.O.	November 14, 1959.
(E)	11/S.R.O.	December 22, 1959.
(F)	2/S.R.O.	May 12, 1960.
(G)		October 27, 1960.
(H)		November 17, 1960.
(I)	5/S.R.O.	December 8, 1960.
(J)	2/S.R.O.	February 4, 1961.
(K)	5/S.R.O.	September 23, 1961.
(L)	6/S.R.O.	November 28, 1961.
(M)	3/S.R.O.	February 28, 1962.



# RAJASTHAN HIGH COURT RULES, 1952.

High Court of Judicature for Rajasthan at Jodhpur.  
NOTIFICATION.

Dated, Jodhpur, the 29th August, 1952.

No. 30/Gen.—The Rajasthan High Court Rules, 1952, which have been framed by the High Court of Judicature for Rajasthan in exercise of the powers conferred by section 46 of the Rajasthan High Court Ordinance, 1949, read with Article 225 of the Constitution of India and all other powers enabling it in that behalf are hereby published for general information.

By order of the Court,  
M. L. RAZDAN,  
*Registrar.*

## *Notes.*

Section 46 of the Rajasthan High Court Ordinance, 1949 authorises the High Court to make rules for—

- (a) to regulate the sittings of the Court;
- (b) to regulate the practice of the Court;
- (c) to provide for the forms to be used in the Court for proceedings and prescribe forms in which books, entries statistics and accounts shall be kept by its officers;
- (d) to settle tables of fees to be charged on documents filed in the Court and to be allowed to all Officers and clerks of the Court and Advocates practising therein;
- (e) to regulate all such matters as it may think fit with a view to the promoting of the efficiency of the High Court and the maintaining of proper discipline.

The power so conferred under section 46 of the Ordinance is further protected and recognised by Article 225 of the Constitution of India, 1950. The Article 225 provides that:—

Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

It is in pursuance of the aforesaid powers that the High Court of Judicature for Rajasthan has framed these rules for regulating the proceedings and matters in the Rajasthan High Court.

These Rules have, subsequently, been amended from time to time through various amending notifications published in Rajasthan Raj-patra. The amendment so made have been incorporated in the body of the rules and references thereto have, been given in the notes below the relevant rules. These rules have been made appli-

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*These rules have been first published in Rajasthan Raj-patra Dated September 13, 1952, in supplement to part II at page 1.*

cable to the new State of Rajasthan as constituted under State Re-organisation Act, 1956. The notification in this respect is reproduced below:—

[ Published in Rajasthan Raj patra Extraordinary part IV (c) Nov., 1956 ]

RAJASTHAN HIGH COURT, JODHPUR.

Jodhpur, November 1, 1956.

No. 21/S.R.O.—The High Court has with the approval of the Governor been pleased to order that all rules issued by the High Court of the former State of Rajasthan shall have force in the new State of Rajasthan as if they were rules issued by the new Rajasthan High Court, and further that action previously taken under these rules or under any corresponding rule applicable in Ajmer Merwara or Abu areas shall be deemed to have been taken under these rules.

By Order,  
M. L. RAZDAN,  
Registrar.

## PART I - GENERAL

### CHAPTER I

#### PRELIMINARY.

1. *Introductory.*—These rules are made by the High Court of Judicature for Rajasthan in exercise of the powers conferred by section 46 of the Rajasthan High Court Ordinance, 1949, read with Article 225 of the Constitution of India and all other powers enabling it in that behalf.

2. *Short title and commencement.*—(1) These Rules may be cited as Rules of the High Court of Rajasthan, 1952, and shall come into force on the 1st day of October, 1952. They shall apply to proceedings and matters in the Rajasthan High Court commenced on, or subsequent to, that date and, so far as may be, also to proceedings and matters pending on that date.

(2) An amendment to these Rules shall apply to proceedings and matters in the Court commenced on or subsequent to the date of the amendment and so far as may be also to proceedings and matters pending on that date.

#### Notes

The existing rule 2 has been renumbered as sub-rule (1) of rule 2 and sub-rule (2) of rule 2 as above has been newly inserted vide amending notification No. 9/S. R.O. dated 29-6-57, published in Rajasthan Raj-patra dated 25-7-57, part IV (c).

3. *Interpretations.*—(1) In these Rules unless the context otherwise requires—

“Bench” includes a Judge sitting alone;

“Certified” in relation to a copy means certified as provided in section 76 of the Indian Evidence Act, 1872;

“Chief Justice” includes, in his absence from the station, the Judge authorised to act on his behalf;

“Code” means the Code of Civil Procedure, 1908, and reference to an “Order” of the Code means reference to an Order of the First Schedule thereto;

“Constitution” means the Constitution of India;

“Court” and “this Court” mean the High Court of Judicature for Rajasthan;

"Editor" means a person appointed by the Chief Justice for scrutinising applications for translation and printing and for performing such other duties as are assigned to him under these Rules

"Judge" means a Judge of the Court;

"Judgment Writer" means an officer of the Court appointed to take down notes of judgments or orders pronounced by the Court and includes any person who may for the time being be authorised or directed by the Court to take down a judgment or an order pronounced by it;

"Notice" includes "summons";

"Oath Commissioner" means a person appointed by the High Court under clause (b) of section 139 of the Code of Civil Procedure, 1908, and section 539 of the Code of Criminal Procedure, 1898, before whom affidavits and affirmations may be sworn and affirmed;

"Paper Book" means a collection of papers in original or their copies, transliterations or translations, as the case may be, with fly sheet, index, etc., made up in accordance with these rules for the use of the Judge or Judges hearing the case;

"Prescribed" means prescribed by or under these Rules;

"Registered address" means the last address within the local limits of the territorial jurisdiction of the Court filed by a party in the Court or in the court below at which service of notice, summons or other process may be made on him;

"Registrar" includes—

- (i) the Deputy Registrar at Jaipur in matters relating to the Jaipur Bench;
- (ii) any other officer, with respect to such functions and duties of the Registrar as may have been assigned to such officer by the Chief Justice; and
- (iii) in the absence of the Registrar, the Deputy Registrar or any other officer authorised to act on his behalf;

"Sealed" means sealed with seal of the Court;

"Special Appeal" means an appeal from the decision of one Judge;

"State" means the State of Rajasthan;

"Supreme Court Rules" means the Supreme Court Rules, 1950;

"Vacation Judge" means the senior-most Judge on duty during the long vacation at Jodhpur or Jaipur, as the case may be;

"Vakalatnama" means a document referred to in rule 4 of Order III of the Code appointing an Advocate to act for any person in this Court.

#### Notes

The definition of Taxing Officer standing as under has been deleted vide amending Notification No. 6/S.R.O. dated 8-2-55, published in Rajasthan Raj-patra dated 5:3-55, part IV (c):—

"Taxing Officer" means an officer appointed by the Chief Justice to perform the functions of the taxing officer under the Court Fees Act, 1870, as adapted to Rajasthan, and to tax costs;

(2) The General Clauses Act, 1897, shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

4. *Reckoning of time.*—Where any particular number of days is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a day on which the offices of the Court are closed, in which case the time shall be reckoned exclusively of that day also and of any succeeding day or days on which the offices of the Court continue to be closed.

5. *Repeal.*—The existing Rules of Court and all other existing rules and orders dealing with matters covered by these Rules are hereby repealed:

Provided that nothing in this Rule shall affect anything done or to be done under such repealed rules or order or under any decree or order made in accordance with them prior to the date of commencement of these Rules.

6. *Issue of orders.*—Every Judicial order, civil or criminal, issued from the office of the Court shall be in writing. No such order shall issue by telegram or telephone.

## CHAPTER II.

### POWERS AND DUTIES OF THE REGISTRAR.

#### *Notes*

Section 41 of the Rajasthan High Court Ordinance, 1949 authorises the High Court to make rules for delegating to the Registrar or Deputy Registrar or other Official of the court any judicial, quasi-judicial and non-judicial duties. The rules under this Chapter have been framed for putting into effect the purposes of section 41 of the Ordinance.

7. *Functions, powers and duties of the Registrar.*—In addition to other functions, powers and duties of the Registrar under these Rules or other law, the following shall be his functions, powers and duties in relation to judicial proceedings, namely—

- (i) to dispose of all matters relating to the service of notices and other processes including the signing and issuing of warrants issued under the orders of the Court;
- (ii) to allow the removal of formal defects in any memorandum of appeal or objection, petition or application;
- (iii) to admit, issue necessary orders in, and dispose of uncontested applications made:—

Under Order XXII of the Code—

- (a) to bring on record the legal representatives of deceased parties, provided that no question of abatement or limitation arises; or
- (b) to record the assignment, creation or devolution of any interest during the pendency of a case; or

Under Order XXXII of the Code—

for appointment or removal of next friend or guardian *ad litem*, including fixation of fees and expenses of the next friend or guardian;

- (iv) to deal with a motion for the admission of an application for leave to appeal to the Supreme Court in all cases in which an order for issue of notice may be made as a matter of course;
- (v) to receive plaint, issue notice or fix date for the filing of written statement in a proceeding under the original ordinary or extraordinary jurisdiction of the Court, with liberty to adjourn any matter to the Judge seized of the case in Chambers;
- (vi) to deal with matters relating to the payment of expenses and allowances to jurors and witnesses;
- (vii) to direct that a security bound furnished under the provisions of rule 10 of Order XLI of the Code be sent to the court below for verification and report;
- (viii) to send decrees and orders passed by the Court in the exercise of its original ordinary or extraordinary jurisdiction to other courts for execution;
- (ix) under the Indian Succession Act, 1925—
  - (a) to receive an inventory of the property, credits and debts of the deceased to which the executor or Administrator is entitled, or an account of the estate showing the assests and the application or disposal thereof;
  - (b) to require an executor or administrator to exhibit an inventory or account under section 317;
  - (c) to grant extension of time for filing an inventory or account;
  - (d) to place on record an inventory or account when in order;
  - (e) to issue necessary notices in connection with matters mentioned in clauses (a) and (b), with liberty to adjourn any matter of the Bench concerned;
- (x) to verify a compromise or record the statement on oath of any person, under the orders of the Court;
- (xi) to extend the time for the submission of findings by the court below in a case in which issues have been referred for trial to that court under rule 25 of Order XLI of the Code;
- (xii) to dispense with copies of judgements where such copies have been filed in at least one connected appeal or revision;
- (xiii) to deal with all matters connected with the progress of a case subject to such orders as the court may pass from time to time including the receiving of affidavits and the granting of time for filing the same;
- (xiv) to direct that any matter be laid before the Court; or
- (xv) to do such other act as may be directed by the Court.

8. *Return of memorandum of appeal for amendment.*—The Registrar may return for amendment any memorandum of appeal under rule 3 (1) of Order XLI of the Code. Where a Memorandum

of appeal has been so amended, he shall sign the amendment. The duties of the Registrar under this Rule shall be deemed to be of a quasi-judicial nature and his orders shall be subject to revision by the Court on application by the aggrieved party made within a period of two months or such further time as the Court may allow from the date of the order complained of.

9. *Extension of time*—Where the Registrar has refused to grant extension of time for any purpose under the foregoing Rules, the Court may, on a written application and for sufficient cause shown, grant the same.

Where a party does not take steps within the time allowed or where no one appears before the Registrar to ask for time to take necessary steps and the Registrar directs that the case be put up for orders before the Court, he shall be deemed to have refused to grant extension of time within the meaning of this Rule.

10. *Additional powers*.—The Chief Justice may by order authorise the Registrar or any other officer.—

- (a) To admit a memorandum of appeal from the decree or order of a Subordinate Civil Court and determine whether notice shall be issued at once to the other party or the appeal shall be put for hearing under rule 11 of Order XLI of the Code or otherwise before the Court;
- (b) to dispose of a contested application for impleading the legal representative of a deceased party;
- (c) to receive and dispose of an application for the withdrawal of an appeal or for a consent decree or order;
- (d) to receive and dispose of an application for the return of a document;
- (e) to receive and dispose of an application under sub-rule (1) of rule 5 or rules 6, 8 or 10 of Order XLI of the Code; or
- (f) to admit a petition of an appeal from the decision of a Subordinate Criminal Court other than an appeal under section 417 or under section 420 of Criminal Procedure Code and determine whether notice under section 422 of Criminal Procedure Code shall be issued at once or the appeal shall be put for hearing and orders under section 421 of the Code.

*Notes.*

Clause (f) of Rule 10 has been newly inserted vide amending Notification No. 19/S.R.O. dated 5-10-53, published in Rajasthan Rajpatra dated 31-10-53, part II.

2. to dispose of applications under 219, 223, 224, 225 and 243 and applications under Rule 63 for expediting the hearing of a case"

*Notes*

Clause (g) stand substituted vide notification No. E.

The Registrar or any other officer authorised under this Rule may adjourn any of the above matters to Court.

Where an officer other than the Registrar has been authorized under this Rule, the Registrar may exercise his function in his absence.

In the absence of the Registrar where he has been authorized under this Rule or where an officer other than the Registrar has been so authorized in the absence of both, a motion relating to any of the above matters may be made in Court and all such matters may be listed before the Court for disposal.

Any order passed by the Registrar or any other officer under clause (b) or (c) of this Rule shall be subject to revision by the Court on application made by the aggrieved party within a period of two months or such further time as the court may allow from the date of the order complained of.

11. *Exercise of powers by other officer.*—The Chief Justice may authorise the Deputy Registrar or any other officer to exercise such functions, powers and duties of the Registrar under these Rules as he may by order assign to him.

In the absence of such officer, the registrar shall himself exercise such functions, powers and duties as may have been assigned to him by the Chief Justice under this Rule.

12. *Exercise of Registrar's powers in his absence.*—In the absence of the Registrar, the Deputy Registrar shall exercise the functions, powers and duties of the Registrar with the exception of the powers, if any, conferred under rule 10.

13. *Court's jurisdiction unaffected.*—The powers conferred upon and the functions and duties assigned to the Registrar, the Deputy Registrar or any other officer under these Rules, shall in no way affect the jurisdiction and powers of the Court.

### CHAPTER III

#### EXECUTIVE AND ADMINISTRATIVE BUSINESS OF THE COURT.

##### *Notes*

The rules in this Chapter have been framed for putting into effect the provisions of sub-section (3) of section 44 of the Ordinance which provides that:—

(3) The administrative control of the High Court shall vest in the Chief Justice who may exercise it in such manner and after such consultation with the other Judges as he may think fit or may delegate such of his functions as he deems fit to any other Judge of the High Court.

14. *Administrative Committee.*—(1) A Committee of Judges shall be formed composed of the Chief Justice, the Judge in the Administrative Department and such other Judge or Judges as the Chief Justice may appoint. This Committee shall be called the Administrative Committee.

##### *Notes*

Previously sub-rule (1) of rule 14 was as under. It has been replaced by the present rule vide amending Notification No. 23/S.R.O. dated 8-10-58, published in Rajasthan Raj-patra dated 30-10-58, part IV (c):

14. *Administrative Committee.*—(1) A committee of Judges shall be formed composed of the Chief Justice, the Judge in the Administrative Department and other judge or judges at Jodhpur. This committee shall be called the Administrative Committee.

(2) Subject to these Rules, the Administrative Committee shall act for the court in its administrative and executive business.

15. *Administrative Judge.*—Subject to such directions as he may lay down, the Chief Justice may appoint any Judge to be in general charge of the administrative and executive business of the Court. Such Judge shall be called the Judge in the Administrative Department.

16. *Work to be submitted to Administrative Judge.*—All executive and administrative business, and all business in the Administrative Department requiring orders, all material correspondence, all returns and statements, except return to a precept or judicial order or explanation called for by a Judge or Judges, or copies of judgments in sessions trials received monthly from Sessions Judges or references to the Court, shall be submitted by the Registrar to the Judge in the Administrative Department, together with his observations thereon, if any and may, subject to these Rules, and to any special directions of the Chief Justice, be disposed of by that Judge.

17. *Consultations with members of the Administrative Committee.*—The Judge in the Administrative Department may refer to the Judges of the Administrative Committee then present in Jodhpur any matter as to which he thinks it advisable that they should be consulted and obtain the opinions of such Judges either by circulating the papers connected with the matter or by laying the matter before a meeting of the Administrative Committee.

18. *Matters in which Administrative Committee shall be consulted.*—In regard to the following matters the Judge in the Administrative Department shall consult the Administrative Committee either by circulating the papers connected therewith together with his own opinion or recommendation thereon to the members of the Committee then present in Jodhpur for opinion or by laying the matter before a meeting of the Administrative Committee, namely:—

- (a) the issue of general letters to subordinate courts;
- (b) the issue of directions regarding the preparation of returns and statements;
- (c) all matters of importance upon which the Government desires the opinion of the Court; and
- (d) any other matter which the Chief Justice or the Judge in the Administrative Department may desire to be brought before it:

Provided that copies of all general letters issued to subordinate courts shall be circulated to all Judges for information as soon as may be after issue.

19. *Circulation of Agenda of meeting of Administrative Committee to membrs.*—The agenda of the Administrative Committee shall ordinarily be circulated to members before the meeting and they may, if necessary, express their views on any of the matters on the agenda for the consideration of the Committee.

20. *Decision of Administrative Committee to be circulated to Judges.*—When the Administrative Committee disposes of any



business, there shall be circulated for information to all the Judges except such Judges as may be on leave, as soon after the decisions have been taken as possible, a statement showing what matters were laid before the Committee and the manner in which they were disposed of.

21. *Matters on which all Judges shall be consulted.*—On the following matters all the Judges of the Court shall be consulted, namely.—

- (a) proposals as to legislations or changes in the law;
- (b) proposals as to changes in or the issue of new Rules of Court;
- (c) proposals as to changes in or the issue of new rules for the guidance of subordinate courts;
- (d) withholding of promotion, super-session or reduction of judicial officers;
- (e) important questions of policy or those affecting the powers and status of the Court;
- (f) matters connected with the Supreme Court;
- (g) annual administration report due for submission to Government before it is passed by the Administrative Committee;
- (h) all matters upon which the Government desires the opinion of the whole Court; and
- (i) any matter which the Chief Justice or the Administrative Committee may consider fit to be laid before them for consideration.

22. *Matter falling within Chief Justice's jurisdiction.*—The Judge in the Administrative Department shall not except at the request of the Chief Justice deal with any matter falling within the latter's exclusive jurisdiction.

23. *Judges to consider speedily papers circulated to them.*—When papers are circulated for opinion by order of the Judge in the Administrative Department, the Judges shall consider the same as speedily as possible, giving priority to such as may have been marked *Urgent*.

24. *Procedure for circulation.*—So far as convenient papers for circulation shall be sent by the Registrar to the Judges at Jodhpur and at Jaipur in their order of seniority, commencing with the junior Judge. The Registrar or the Deputy Registrar shall, so far as practicable, obtain from each Judge such papers within three days from the date when the same are sent to him. The Registrar or the Deputy Registrar shall endorse on the papers the date when they were sent to, and the date when they were received back from each Judge. It shall not be necessary to send papers to any Judge who is not for the time being in Jodhpur or Jaipur, as the case may be.

25. *Effect of a Judge not expressing his opinion within three days on urgent paper.*—When a Judge does not write his opinion within three days from the date when he receives any urgent paper sent to

him for opinion, he shall be deemed to have declined to express any opinion on the matter.

26. *Papers to be submitted to Administrative Judge after circulation.*—After any papers have been circulated for opinion, they shall be submitted again to the Judge in the Administrative Department, who may either direct that the opinion of the majority of the Judges including himself, be given effect to or lay the matter for consideration before a Judges' meeting, or a meeting of the Administrative Committee, as the case may be.

27. *Chief Justice may call a meeting of the Judges or the Administrative Committee*—The Chief Justice may call a Judges' meeting or a meeting of the Administrative Committee whenever there is business to be disposed of.

28. *Notice of meeting to Judges.*—The Registrar shall give to the Judges concerned, except in a case of emergency, at least one clear day's notice in the case of a meeting of the Administrative Committee and three clear day's notice in the case of the Judges meeting, of the date, place and hour when such meeting would be held and of the business to be brought before such meeting. In a case of emergency the Registrar shall give the best notice he can. It shall not be necessary to give notice of a meeting of the Administrative Committee to any Judge who is not for the time being in Jodhpur.

29. *Decision in case of a difference of opinion.*—In case of a difference of opinion at a Judges' meeting or a meeting of the Administrative Committee, the decision shall be in accordance with the opinion of the majority of the Judges present, and in case the Judges present be equally divided, the Chief Justice or in his absence the senior Judge present shall have a casting vote.

30. *Proceedings to be recorded.*—The Registrar, or, in his absence, the Deputy Registrar, shall attend all Judges' meetings and meetings of the Administrative Committee and shall record in the respective minute books the proceedings at such meetings. The record of the proceedings shall be preceded by a statement signed by the Registrar or the Deputy Registrar, as the case may be, showing which of the Judges attended the meeting and the business for which the meeting was called.

Such record may be made either at the time of the meeting or subsequently from notes taken at the time by the Registrar or the Deputy Registrar, as the case may be.

31. *Custody of Minute books.*—The minute books shall be kept in the safe of the Court and shall not be removed from the Court premises except by the Registrar with the sanction of the Chief Justice for the purpose mentioned in the next preceding Rule.

32. *Effect of any irregularity in or omission to follow the procedure laid down in this Chapter.*—No irregularity in, or omission to follow, the procedure laid down in this Chapter shall affect the validity of any order passed or anything done under these Rules.

## CHAPTER IV.

## AFFIDAVIT AND OATH COMMISSIONERS.

33. *Appointment of Oath Commissioners.*—The Chief Justice may from time to time appoint such persons as he may consider fit to be Oath Commissioners specifying the period or periods for which they have been so appointed.

34. *Fees*—Such fees shall be paid for the verification of affidavits before Oath Commissioners as may be prescribed from time to time by order of the Chief Justice.

35. *Registers.*—Oath Commissioners shall maintain a register or registers which shall contain the following particulars with respect to each affidavit sworn before them, namely:—

- (a) serial number;
- (b) date and time of making the affidavit;
- (c) particulars of the case to which the affidavit relates;
- (d) full particulars of the person making the affidavit;
- (e) particulars of the person identifying him;
- (f) fee paid;
- (g) name of the Oath Commissioner before whom the affidavit is sworn; and
- (h) signature of the Oath Commissioner and remarks, if any.

The Chief Justice may from time to time fix the number of registers to be maintained and add to, or alter the particulars required to be entered therein.

The registers shall be open to inspection by the Registrar.

36. *Affidavit to bear serial number.*—Each affidavit shall bear on it the number and the year of the register in which it is entered and the serial number of the entry.

37. *Duty of Oath Commissioner.*—An Oath Commissioner shall not allow an affidavit to be sworn before him unless it complies with the provisions of this Chapter.

38. *Distribution of fees.*—The fees paid shall be distributed among the Oath Commissioners in such manner as the Chief Justice may from time to time direct.

39. *Removal of Oath Commissioners.*—The Chief Justice may in his discretion remove an Oath Commissioner from his office.

40. *Affidavits filed or presented in Court.*—The provisions of Rules 126, 129, 130, and 135 of Chapter IX shall, so far as may be, apply to an affidavit filed or presented in Court. Every such affidavit and every exhibit annexed thereto shall be marked with the particulars of the case or proceeding in which it is sworn.

## Notes

The provisions for rules 126, 129, 130 and 135 have been made applicable for affidavits also. The affidavit should, therefore, be in the language of the Court, bear the general heading of the case, be divided into paragraphs legibly written and should be on one side only on petition paper. It should be accompanied with the copies as required under rule 135.

41. *Full particulars of persons and places to be given*—An affidavit shall fully describe the person swearing the affidavit with

such particulars as will ensure his clear identification such as his full name, the name of his father, his religious persuasion, his rank or degree in life, his profession, calling, occupation or trade and his true place of residence. Any person or place referred to in an affidavit shall be fully described in such manner as to enable his or its identity to be clearly fixed.

42. *Persons who may make affidavits*—Except as otherwise provided by law or by these Rules or by an order of the Court, an affidavit may be sworn by any person having knowledge of the facts deposed to therein.

Two or more persons may join in an affidavit, each deposing separately to such facts as are within his knowledge.

43. *Form of affidavit*.—When the deponent speaks to any facts within his own knowledge, he must do so directly and positively using the words "I affirm" or "I make oath and say," or words to that effect.

44. *Facts to be within the deponent's knowledge or source to be stated*.—Except on interlocutory applications, affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove.

On an interlocutory application when a particular fact is not within the deponent's own knowledge, but is based on his belief or information received from others which he believes to be true, the deponent shall use the expression "I am informed and verily believe such information to be true", or words to that effect, and shall sufficiently describe for the purpose of identification, the person or persons from whom his information was received.

When any fact is stated on the basis of information derived from a document, full particulars of that document shall be stated and the deponent shall verify that he believes such information to be true.

45. *Identification of deponent*.—Every person swearing an affidavit shall, if not personally known to the person before whom the affidavit is sworn, be identified before that person by some one known to him; and in such case the person before whom the affidavit is made shall state at the foot of the affidavit, the name, address and description of the person by whom such identification was made.

Such identification may be made by a person.—

- (a) personally acquainted with the person to be identified; or
- (b) who is reasonably satisfied as to his identity:

Provided that in the latter case the person so identifying shall sign at the foot of the affidavit a declaration in the following form, after there has been affixed to such declaration in his presence the signature or thumb impression of the person so identified, namely

**FORM OF DECLARATION.**

I (name, description and address) declare that I am satisfied on the grounds stated below that the person making this affidavit and alleging himself to be A. B, is that person.

## GROUNDINGS

46. *Affidavit by Pardanashin woman.*—No affidavit purporting to have been sworn by a woman who did not appear unveiled in the presence of the person before whom the affidavit was made, shall be used unless she was identified in the manner specified in Rule 45, and the affidavit is accompanied by a separate affidavit by the person identifying her made at the time of identification setting forth the circumstances in which she was personally known to him or he was satisfied that she was such person as she alleged herself to be in her affidavit.

47. *Contents to be explained to deponent.*—The person before whom an affidavit is sworn shall ask the deponent if he has read the affidavit and understands the contents thereof. If the deponent states that he has not read it or appears not to understand the contents or does not know the language thereof, he shall read and explain or cause another person to read and explain in his presence, the affidavit to such person. Until he is satisfied that the deponent fully understands its contents he shall not allow the affidavit to be sworn.

48. *Impounding of affidavit.*—When it appears to an Oath Commissioner that the deponent cannot be made to or will not understand the contents of the affidavit, he shall impound it and forward it to the Registrar for such action as he may consider necessary. When an affidavit is impounded under this Rule, the person impounding the same shall certify therein the date on which and the circumstances in which, it was impounded.

49. *Oath or affirmation by deponent.*—The person administering an oath or affirmation to the person making an affidavit shall follow the provisions of the Indian Oaths Act, 1873.

The following forms are prescribed, namely—

### OATH

I swear that this my declaration is true; that it conceals nothing; and that no part of it is false. So help me God.

### AFFIRMATION

I Solemnly affirm that this my declaration is true; that it conceals nothing; and that no part of it is false.

50. *Corrections in affidavit.*—All interlineations, alterations or erasures in an affidavit shall be initialled by the person swearing it and the person before whom it is sworn. Such interlineations or alterations or erasures shall be made in such manner as not to obliterate or render it impossible or difficult to read the original matter. In case such matter has been obliterated so as to make it impossible or difficult to read it, it shall be re-written in the margin and initialled by the person before whom the affidavit is sworn.

No interlineation or alteration or erasure shall be made in an affidavit after it has been sworn.

51. *Certificate of verification.*—The person before whom an affidavit is sworn shall certify at the foot of the affidavit the fact of

the swearing of the affidavit before him, the manner in which he has complied with rule 47 and the date and hour of swearing of the affidavit and shall mark, initial and date any exhibits referred to therein.

52. *Affidavit containing numerous corrections may not be accepted.*—The Court or the Registrar may refuse to receive an affidavit in which the interlineations, alterations or erasures appear to be so numerous as to make it expedient that the affidavit should be re written.

53. *Interpretation.*—In this Chapter 'Affidavit' includes a petition or other document required to be sworn, and 'sworn' shall include 'affirmed'.

## CHAPTER V.

### JURISDICTION OF JUDGES SITTING ALONE OR IN DIVISION COURTS

#### Notes

The rules in this Chapter are meant for carrying out the purposes of sub-sec. (1) and (2) of section 44 of the Rajasthan High Court Ordinance. Sub-section (1) and (2) read as under:—

(1) The High Court may, by its own rules, provide as it thinks fit for the exercise by one or more judges, or by Division Courts constituted by two or more Judges of the High Court, of its original and appellate jurisdiction.

(2) The Chief Justice shall be responsible for the distribution and conduct of the business of the High Court, and shall determine which Judge in each case will sit alone and which Judges of the Court will constitute a Bench.

54. *Constitution of Benches.*—Judges shall sit alone or in such Division Courts as may be constituted from time to time and do such work as may be allotted to them by order of the Chief Justice or in accordance with his direction.

55. *Jurisdiction of a single Judge.*—Except as hereinafter provided by these Rules or other law, the following cases shall ordinarily be heard & disposed of by a Judge sitting alone, namely:—

- (i) a motion for the admission of a memorandum of appeal or cross-objection or (an) application for *ex parte interim* order on an application;
- (ii) A civil appeal (excluding execution appeals) other than an appeal arising from a suit of which the valuation exceeds ten thousand rupees.

Provided that in computing such value the value for the purpose of jurisdiction of any cross-objection filed therein shall be added to such value, and

Provided further that where an *ad valorem* Court fee has been paid such value shall be deemed to be the amount on which such court fee has been paid.

#### Notes

Originally para (ii) of rule 55 was as under:—

- (ii) a civil appeal (except a First Appeal other than an Execution First Appeal, from an original decree) from a decree or order in which the value of the appeal for the purpose of jurisdiction does not exceed in

case of execution appeals five thousand rupees, and in case of other appeals two thousand rupees:

Provided that in computing such value, the value for the purpose of jurisdiction of any cross-objection field therein shall be added to such value; and

Provided further that where an *ad valorem* court fee has been paid such value shall be deemed to be the amount on which such court-fee has been paid.

The above para (ii) was subsequently substituted in following form by the amending Notification No. 28/S.R.O. dated 1-12-53, published in Rajasthan Raj-patra dated 16-1-54 part II:—

“(ii) a civil appeal (excluding execution appeals) from a decree order other than an appeal from a decree in a suit of which the valuation exceeds five thousand rupees.”

This was again replaced by the following form through amending Notification No. 22/S.R.O. dated 1-10-55, published in Rajasthan Raj-patra dated 5-11-55, part IV (c):—

(ii) a civil appeal (excluding execution appeals) other than an appeal arising from a suit of which the valuation exceeds five thousand rupees.

Para (ii) in its present form stands as finally substituted through amending Notification No. 6/S.R.O. dated 17/1/58, published in Rajasthan Raj-patra dated 27/3/58, part IV (c).

(iii) an execution appeal in which the value of the appeal for the purpose of jurisdiction does not exceed ten thousand rupees.

#### Notes.

The following was added as new para (iii) of Rule 55 by the amending Notification No. 28/S.R.O. dated 1/12/53, published in Rajasthan Rajpatra dated 16/1/54 part II :—

“(iii) an execution appeal in which the value of the appeal to the purpose of jurisdiction does not exceed five thousand rupees.”

Provided that in computing such value the value purpose of jurisdiction of any cross objection field there in shall be added to such value and

Provided further that where an *ad-valorem* court fee has been paid such value shall be deemed to be the amount on which such court-fee has been paid.

Para (iii) thus added was again substituted in the present form through Notification No. 6/S.R.O. dated 17/1/58, published in Rajasthan Rajpatra dated 27/3/58, part IV (c).

(iv) a civil revision.

#### Notes.

Originally para (iv) of rule 55 stood as under:—

“(iv) a civil revision, if the value of such revision does not exceed two thousand rupees.”

Above para was subsequently substituted reading as under vide amending Notification No. 15/S.R.O. dated 23/3/54 published in Rajasthan Rajpatra dated 1/5/54, part I (B):—

“(iv) a civil revision, other than a revision arising from a suit of which the valuation exceeds five thousand rupees.

The above words “other than revision arising from a suit of which the valuation exceeds five thousand rupees” were then subsequently deleted vide amending Notification No. 6/S.R.O. dated 17/1/58, published in Rajasthan Rajpatra dated 27/3/58 part IV (c) resulting in the present form of para (iv).

(v) an application for the withdrawal of an appeal or application, or for a consent decree or order, which is uncontested or which is made in a case which can be heard under these Rules by a Judge sitting alone;

(vi) any other application which is not—

(a) an application for the appointment of a receiver or for an injunction or for security for costs or for leave to appeal in *forma pauperis* or under section 5 of the Indian Limitation Act, 1908, in a case which cannot be heard by a Judge sitting alone;

(b) an application in the matter of an appeal to the Supreme Court; or

(c) an application which by these Rules or other law is required to be heard by a Bench of two or more Judges;

(vii) a suit or a proceeding in the nature of a suit coming before the Court in the exercise of its original or extraordinary original civil, testamentary or matrimonial jurisdiction including a proceeding under the Indian Trusts Act, 1882, the Indian Companies Act, 1913, or the Indian Patents and Designs Act, 1911;

(viii) a reference under Section 40 of the Rajasthan Revenue Courts (Procedure and Jurisdiction) Act, 1951;

#### Notes.

The para (viii) of Rule 55 has been newly inserted through amending Notification No. 35/S.R.O. dated 26/8/54, published in Rajasthan Rajpatra dated 13/11/54 part IV (c) and paras (viii), (ix) and (x) have consequently been re-numbered accordingly.

(ix) a case or proceeding under section 30 of the Rajasthan High Court Ordinance.

#### Notes.

After item No. (viii), the present item No (ix) has been newly inserted and the existing items No. (ix), (x) and (xi) have been re-numbered accordingly



vide amending Notification No. 5/S.R.O. dated 16/1/58, published in Rajasthan Raj-patra dated 6/2/58, part IV (c).

(x) a criminal appeal, application or reference under the Code of Criminal Procedure, 1898 or any other law except—

(a) an appeal or reference in a case in which a sentence of death or imprisonment for life or of imprisonment exceeding ten years has been passed;

*Notes.*

Words "ten" has been substituted for the words "seven" in this rule vide amending Notification No. 5/S.R.O. dated 26/2/57 published in Rajasthan Rajpatra dated 11/4/57 part IV (c) and words "imprisonment for life" have been substituted for the words "transportation for life" vide amending Notification No. 6/S.R.O. dated 17/1/58, published in Rajasthan Rajpatra dated 27/3/58, part IV (c).

(b) an appeal by the State Government under sub-section (2) of section 411-A or section 417 of the Code of Criminal Procedure from an order of acquittal;

(bb) [Omitted.]

*Notes.*

Clause (bb) after clause (b) in item No. (x) of rule 55 has been newly added vide amending Notification No. 10/S.R.O. dated 14/10/57 published in Rajasthan Rajpatra dated 7/11/57 part IV (c). The item No. (x) which was originally numbered as item No. (vii) stands now renumbered as item No. (x) vide amending Notifications from time to time.

*Notes.*

Clause (bb) to sub-rule (x) of rule 55, which previously stood as under, has now been omitted vide Notification No. M.

Clause (bb) stood as under:—

(bb) (i) An appeal from an order of acquittal by a complainant, who has been granted special leave to appeal under sub-section (3) of section 417 of the Code of Criminal Procedure.

(ii) An application for grant of special leave to appeal as aforesaid.

Previous to this omission Clause (b) was to be omitted vide Notification number K which was Subsequently Suppressed vide Notification under M.

(c) a case submitted under section 307 of the Code of Criminal Procedure;

(d) a case in which notice has issued under section 439 of the Code of Criminal Procedure to an accused person to appear and show cause why his sentence should not be enhanced; or

(e) an appeal or a petition for leave to appeal under sub-section (1), or a motion to obtain a declaration

under sub-section (4) of section 411-A of the Code of Criminal Procedure;

- (xi) a case coming before the Court in the exercise of its ordinary or extraordinary original criminal jurisdiction;
- (xii) An application under Article 226 or 227 of the Constitution relating to (a) matters arising out of Municipal or Panchayat Elections in which the Constitutionality of any law is not challenged, (b) orders of Gram Panchayats, Tehsil Panchayats or District and Sessions Judges purporting to have been passed under the Gram Panchayat Act.
- (xiii) An application under Article 226 or 227 of the Constitution relating to judicial cases in Panchayats.

*Notes.*

Clause (xii) in the present form is the substitution for the former one vide notification number A. Previously Clause (xii) stood as under;—

- (xii) an appeal or revision from an order passed under section 476, 476-A or 476-B of the Code of Criminal Procedure:

Provided that—

- (a) the Chief Justice may from time to time direct that any case or class of cases which may be heard by a Judge sitting alone shall be heard by a Bench of two or more Judges,
- (b) a Judge may, if he thinks fit, refer a case which may be heard by a Judge sitting alone on any question or questions of law arising therein for decision to a Bench of two Judges; and
- (c) a Judge before whom any proceeding under the Indian Trusts Act, 1882, the Indian Companies Act 1913, or the Patents and Designs Act, 1911, is pending may, with the sanction of the Chief Justice obtain the assistance of one or more other Judges for the hearing and determination of such proceeding or of any questions arising therein.

Former Clause (xii) which now stands substituted was newly inserted and numbered as para (xii) vide amending Notification No. 10/S.R.O. dated 4/5/56, published in Rajasthan Raj-patra part IV (c) dated 9/6/56.

And the para was re-numbered as para No. (xiii) vide amending Notification No. 5/S.R.O. dated 16/1/58, published in Rajasthan Raj-patra, part IV (c) dated 6/2/58.

56. *Cases to be heard by three Judges.*—The following matters shall be heard and disposed of by a Bench of three Judges, namely:—

- (a) a charge against an Advocate in respect of any misconduct under the Indian Bar Councils Act, 1926;

- (b) a case for confirmation of a decree for dissolution of marriage made by a District Judge under the Indian Divorce Act, 1869.

57. *Proceedings under the Legal Practitioners, Act 1879.*—(1) A proceeding under the Legal Practitioners, Act, 1879, against a Pleader with respect to any misconduct or his conviction for any criminal offence shall be heard and disposed of by a Bench of not less than two Judges.

(2) An enquiry under section 36 of the Legal Practitioners, Act, 1879, shall be made by a Bench of two Judges.

58. *Cases withdrawn under Article 228 of the Constitution.*—(1) An application for the withdrawal of a case under Article 228 of the Constitution shall be laid before the Chief Justice for orders. The Chief Justice may either decide himself whether the case should be withdrawn under the said Article or may direct that the application be laid before another judge for a decision of this question.

When a case is withdrawn from a court subordinate to the court under Article 228 of the Constitution it shall be heard by a bench of two or more judges specially appointed by the Chief Justice.

*Notes.*

Rule 58 originally standing as under has been replaced by the present rule vide amending Notification No. 7/S.R.O. dated 5-3-55, published in Rajasthan Raj-patra dated 16-4-55 part IV (c):—

58. *Cases withdrawn under Article 228 of the Constitution.*—A case withdrawn from a court subordinate to the Court under Article 228 of the Constitution shall be heard by a Bench of two or more Judges specially appointed by Chief Justice.

59. *Reference of a case to a larger Bench.*—The Chief Justice may constitute a Bench of two or more Judges to decide a case or any question or questions of law formulated by a Bench hearing a case. In the latter event the decision of such Bench on the question or questions so formulated shall be returned to the Bench hearing the case and that Bench shall follow that decision on such question or questions and dispose of the case after deciding the remaining questions, if any, arising therein.

60. *Contempt in facie curiae.*—Where a contempt as contemplated by section 480 of the Code of Criminal Procedure, 1898, is committed before the Court, the Judge or Judges before whom such contempt is committed may take cognizance of the offence and deal with the offender under the provisions of that and subsequent sections of that Code.

61. *Cases to be heard by two Judges.*—Save as otherwise provided by these Rules or other law or by any general or special

order of the Chief Justice, every other case shall be heard and disposed of by a Bench of two Judges, provided that, on any day when there is only one Judge sitting on the Bench either at Jodhpur or Jaipur, such Judge may exercise jurisdiction which may be exercised by a vacation Judge during the vacation.

61-A. If the Judges constituting a bench are equally divided in opinion as to the decision to be given on any point, and the case cannot be disposed of in accordance with Section 36 of the Rajasthan High Court Ordinance, 1949, the Judges shall state the point upon which they differ and the case shall then be heard upon that point by one or more of the other Judges and the point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who have first heard it.

#### Notes.

This rule has been newly added vide amending Notification No. 1/S.R.O. dated 7-1-55, published in Rajasthan Rajpatra dated 5-2-55, part IV (c).

62. *Senior Judge*.—Subject to any general or special orders of the Chief Justice, senior Judges at Jodhpur and Jaipur shall, in the absence of the Chief Justice, exercise jurisdiction at their respective places in connection with the arrangement of Benches, listing of cases and other like matters.

63. *Vacation Judges*.—(1) Criminal work shall continue to be dealt with during the long vacation by such Judges as may be appointed for the purpose by Chief Justice.

(2) Subject to any general or special order of the Chief Justice, Vacation Judges shall, in the absence of the Chief Justice, exercise jurisdiction at Jodhpur or Jaipur, as the case may be, in connection with the arrangement of Benches, listing of cases and other like matters.

They may also exercise the original and appellate jurisdiction vested in the Court in any miscellaneous matter or any civil matter connected with, relating to or arising out of, the execution of a decree, which may in their opinion, require immediate attention.

Such jurisdiction may be exercised even in cases which are, under the Rules, cognizable by two or more Judges, unless such case is required by any other law to be heard by more than one Judge.

64. *Application for review*.—An application for the review of a judgment shall be presented to the Registrar who shall endorse thereon the date when it is presented and lay the same as early as possible before the Judge or Judges by whom such Judgment was

delivered along with an office report as to limitation and sufficiency of court fees. If such Judge or Judges or any one or more of such Judges be no longer attached to the Court, *or all, or any of them, are or is precluded, by absence or other cause for a period of six months next after the application, from considering the decree or order to which the application refers*, the application shall be laid before the Chief Justice, who shall, with due regard to the provisions of Rules 5 of Order XLVII of the Code, arrange for a Bench for the hearing and disposal of such application.

*Notes.*

Present rule 64 stands newly substituted for the previous one vide notification number F. Previously rule 64 stood as under:—

An application for the review of a judgment shall be presented to the Registrar who shall endorse thereon the date when it is presented and lay the same as early as possible before the Judge or Judges by whom such judgment was delivered along with an office report as to limitation and sufficiency of court-fees. If such Judge or Judges or any one or more of such Judges be on longer attached to the Court, the application shall be laid before the Chief Justice who shall having regard to the provisions of rule 5 of Order XLVII of the Code, arrange for a Bench for the hearing and disposal of such application:

Provided that no application for the review of a judgment of one Judge who is precluded by absence or other cause for a period of six months next after the application from considering the decree or order to which the application refers, shall be heard or disposed of except by a Bench of two or more Judges; and that no application for the review of a judgment of two or more Judges any one or more of whom is or are by absence or other cause for a period of six months next after the presentation of the application precluded from considering the decree or order to which the application refers, shall be heard or disposed of except by a Bench consisting of the same or a greater number of Judges.

65. *Subsequent application on the same subject to be heard by the same Bench.*—No application to the same effect or with the same object as a previous application upon which a Bench has passed any order other than an order of reference to another Judge or Judges, shall, except by way of appeal, ordinarily be heard by any other Bench.

The application when presented by or on behalf of the person by whom or on whose behalf such previous application was made shall give the necessary particulars of such previous application, the nature and the date of the order passed thereon and the name or names of the Judge or Judges by whom such order was passed.

66. *Tied up Cases.*—(1) A case partly heard by a Bench shall ordinarily be laid before the same Bench for disposal. A case in which a Bench has merely directed notice to issue to the opposite party or passed an *ex parte* order shall not be deemed to be a case partly heard by such Bench.

(2) Where a criminal revision has been admitted on the question of severity of the sentence only, it shall ordinarily be heard by the Bench admitting it.

67. *Application in a tied up case.*—Any application in a case which may, under the next preceding Rule, be heard by a particular Bench shall ordinarily be heard by such Bench.

68. *Certain applications to be laid before the Chief Justice for orders.*—An application for the expediting of the hearing of a case or for the removal of a case to be tried and determined by the Court under section 17 of the Rajasthan High Court Ordinance shall be laid before the Chief Justice for orders.

#### Notes.

Section 17 of the Rajasthan High Court Ordinance, 1949, reading as under, vests in the High Court extraordinary original civil jurisdiction. This rule requires that an application for the exercise of this jurisdiction shall be placed before the Chief Justice for orders.

The High Court shall have power to remove, and to try and determine as a court of extra ordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence when the High Court shall think proper to do so either on the arrangement of the parties to that effect, or for purposes of justice the reasons for so doing being recorded on the proceedings of the High Court.

The words "or for the withdrawal of a case under Article 228 of the Constitution" occurring between the words "High Court Ordinance" and "shall be laid" have been deleted vide amending Notification No. 7/S.R.O. dated 5.3.55, published in Rajasthan Rajpatra dated 16-4-55 part IV (c).

## CHAPTER VI.

### HEARING AND ADJOURNMENT OF CASES.

69. *Order Sheet.*—(1) As soon as an appeal or application which may be registered and numbered as a separate case under Rule 125 of Chapter IX or reference is received, an order sheet in the

prescribed form shall be attached thereto. There shall be one order sheet for every case.

(2) When an appeal or application is presented in Court or before the Registrar the first entry on the order sheet shall be made by the Reader concerned. In the case of a reference it shall be made by the clerk concerned.

(3) The entry shall indicate the date on which the appeal or application was presented or the reference received in the office. It shall also record the order, if any, passed on that date.

70. *Order sheet to be in chronological order.*—The order-sheet is intended to be complete record of the history of the case in chronological order and all orders passed and all office reports in the case, including reports as to deficiency in the amount of court-fees, non-payment of process-fees, service of notices etc, shall be entered thereon.

71. *Maintenance of Order-Sheet.*—(1) The order-sheet shall be a continuous one consisting of as many sheets as may be necessary. No entries shall be made on a new sheet until all available space on the previous sheet has been utilized.

(2) The order-sheet shall bear one general number, different sheets thereof being given separate sub numbers.

(3) When an order is recorded by the Court or the Registrar on the order sheet, a note thereof shall also be made by the Reader on the paper to which the order relates. When an order is recorded by the Court or the Registrar elsewhere, an entry thereof shall be made by the Reader on the order-sheet.

(4) All orders recorded by the Court or the Registrar on the order sheet and all entries on the order-sheet of orders recorded elsewhere, shall be serially numbered.

(5) All office reports recorded on the order-sheet shall be signed and dated by the clerk concerned, the date being entered immediately below the signature.

72. *List of ready cases.*—Subject to the directions of the Chief Justice, the Registrar shall cause to be published from time to time a list of all cases ready and likely to be put up for hearing before the Court.

73. *Daily Cause List.*—The Registrar shall subject to such direction as the Chief Justice may give from time to time cause to be prepared for each day on which the Court sits, a list of cases which may be heard by the different Benches of the Court. The list shall also state the hour at which and the room in which each Bench shall sit. Such list shall be known as the Day's List.

74. *Part-heard cases.*—A case which remains part-heard at the end of the day shall, unless otherwise ordered by the Judge or Judges concerned, be placed first after miscellaneous cases, of any, in the Day's List for the day on which such Judge or Judges next sit. Every part-heard case entered in the Day's List may be proceed

ded with whether any Advocate appearing in the case is present or not:

Provided that if any part-heard case cannot be heard for more than two months on account of the absence of any Judge or Judges constituting the Bench, the Chief Justice may order such part-heard case to be laid before any other Judge or Judges to be heard afresh.

75. *Case in which a date is fixed.*—A case in which a date has been fixed for hearing shall, so far as possible, be placed in the Day's List immediately after miscellaneous and part-heard cases.

76. *Case may be disposed of on date fixed if notices served.*—If on the day fixed for the hearing of any case or other matter, it appears that the requisite notices have been duly served, such case or other matter may be disposed of by the Court on that day. But if it is not disposed of on that day, no further notice of the date of hearing other than an entry in the Day's List on the day on which it is to be heard, shall be necessary.

76A. If a case is fixed for a day on which the Court does not sit on account of its being later found or declared to be a holiday, the case will be taken up on the next day on which the Court sits.

#### Notes

This rule has been newly added through amending Notification No. 2/S.R.O. dated 19-1-54, published in Rajasthan Rajpatra dated 6-2-54, part II.

77. *Cases to be called on their order in Day's List.*—Cases in the Day's List of a Bench shall, unless otherwise directed by the Bench, be called on and disposed of in the order in which they stand in the List.

78. *Adjournment on party's application.*—In civil cases, except where an adjournment is made with the consent of the parties or where from insufficiency or want of notice a party has not been able to prepare itself for the hearing of the case, the Court while granting an adjournment may direct the party applying for such adjournment to pay to the opponent or his Advocate such costs as the Court may consider reasonable.

79. *Court may order a case to stand out of its place or be adjourned on application.*—On an application being made to it, the Bench may, for sufficient cause shown, order any case listed before it for hearing to stand out of its place in the Day's List or to be adjourned for such period as may be considered just. Where an adjournment for not more than three days is sought, the application may be made orally. In considering whether there is sufficient cause, any objection on behalf of the other party shall be taken into account.

Such motions shall be made as soon as the Bench begins its work for the day and shall not ordinarily be entertained if made at any other time:

Provided that no adjournment shall be granted under this Rule unless there is sufficient work for the day.

80. *No right to have a case put out of its place in Day's List owing to Advocate's engagement elsewhere.*—No party shall have



the right to have a case put out of its place in the Day's List on the ground that his Advocate or his brief-holder is engaged before another Bench.

The Bench may, however, order any case other than a miscellaneous case or application or a case which is fixed for hearing under rule 11 of Order XLI of the Code to stand out of its place in the List if such Advocate or brief holder is alone in the case and is actually arguing a case before another Bench or is along in a case that is actually being heard by another Bench and has, before the case is called on, given information in writing to the Bench Reader that he is so engaged before the other Bench. A case will, however, not ordinarily be so put out of its place in the List unless there is another case in the List in which the parties or their Advocates are ready and present in the court room so that the case may be proceeded with at once.

It shall be the duty of the Advocate as soon as the case in which he is engaged in the manner indicated above in another Bench is over to inform the Bench Reader accordingly.

A case shall not ordinarily be put out of its place in the List under this Rule more than once.

81. *Application that a case be not listed on any particular day or days*—(1) The Chief Justice may on the application of any party order that a case shall not be placed in the Day's List on any particular day or days.

(2) Such application shall be duly stamped and signed by the applicant or his Advocate and presented before the Registrar. The application shall be laid before the Chief Justice for orders along with a note by the Registrar showing the extent to which, if at all, the work of the Court will be interfered with if the application were to be granted.

82. *Advocate's application for postponement of his cases*.—(1) The Chief Justice may on the application of an Advocate postpone his cases for such time as he may deem proper, if he is satisfied that such postponement is necessary on account of a marriage, death or illness or any other unavoidable or urgent reason.

(2) An application under this Rule shall be accompanied by a list of cases desired to be postponed specifying the occasion or occasions, if any, when such case was previously postponed under this Rule. It shall also indicate the cases in which the date of hearing has been fixed by a Bench. If any omission or inaccuracy in this regard is discovered in the application later, it may result in the order of postponement being withdrawn forthwith.

83. *Alteration of date when fixed by a Judge*.—If the date of hearing in any case has been fixed by a Judge any alteration in such date shall, so far as possible, be made after consulting him.

84. *Inspection of record of a case on the Day's List*.—Except with the permission of the Bench or the Bench Reader, no Advocate shall be allowed access to the record of a case in the Day's List of a

Bench before the case is called on for hearing. During the progress of the arguments in the case, any of the parties' Advocates may have access to the record when it is not being actually referred to or examined by the Bench.

## CHAPTER VII.

### JUDGMENT AND DECREE.

85. *Pronouncing of judgment.*—(1) After a case has been heard, judgment may be pronounced either at once or on some future date which shall be notified in the Day's List according to these Rules. No other notice to the parties shall be necessary.

(2) Where a case has been heard by two or more Judges and judgment has been reserved, their judgment or judgments may be pronounced by any one of them. If no such Judge be present, such judgment or judgments may be pronounced by any other judge.

(3) Where a case has been heard by a Single Judge and judgment has been reserved, his judgment may be pronounced, if such Judge be not present, by another Judge.

#### Notes

This sub-rule (3) has been newly added through amending Notification No. 7/ S.R.O. dated 1-2-58, published in Rajasthan Rajpatra dated 27-3-58, part IV (c).

86. *Judgment or order to be recorded.*—Every judgment or order delivered by the Court shall be recorded. Where written judgment or order is delivered, such judgment or order shall form part of the record. Where the judgment or order is delivered orally in open Court, it shall be taken down by a judgment writer and a transcript thereof shall form part of the record.

87. *Transcript of judgment or order prepared by a judgment writer.*—The transcript of the judgment or order prepared by the judgment writer shall be filed by him with the paper book or record of the case to which it relates not later than three days from the date on which such judgment or order was delivered. The judgment writer shall initial the transcript and enter at the foot thereof the date on which the judgment or order was delivered and the date on which the transcript was filed with the paper book or record of the case.

88. *Judgment or order to be sealed with the seal of the Court.*—(1) When the transcript of the judgment or order prepared by the judgment writer has been filed with the paper-book or record of the case, the Bench Reader shall submit it to the Judge or Judges who delivered it. It shall then be signed or initialled by such Judge or Judges after such corrections as may be considered necessary. Thereafter, it shall be sealed with the seal of the Court by the Bench Reader.

(2) Where a Judge by whom the judgment or order was delivered is not available on account of illness, retirement or any other cause, the transcript shall be submitted to the Chief Justice and it may be sealed under his orders without the signature of such Judge,

a note to that effect being made on such judgment or order under the signature of the Registrar.

(3) Where a written judgment or order is delivered it shall, after it has been signed or initialled by the Judge or Judges delivering it, be sealed with the seal of the Court by the Bench Reader.

89. *Personal Assistants to Judges.*—There shall be attached to each Judge a Personal Assistant who shall act as his judgment writer.

90. *Preparation of decree or formal orders.*—After a suit or a proceeding in the nature of a suit or an appeal from a decree has been heard and decided, a decree shall follow the judgment. In other cases, unless otherwise ordered, a formal order shall follow the order finally disposing of the case or any order by which costs have been awarded.

91. *Taxation of Costs.*—(1) Where the Court has passed an order that the parties shall pay their own costs or that no costs be allowed or an order to the same effect or has passed no order as to costs, no sum shall be entered on taxation in respect of Advocates' fees except such sum as may have been ordered to be paid by a party irrespective of the result of the case.

(2) Where a party is only partially successful and costs are ordered to be paid in proportion to the success of such party, the amount of all taxable costs payable to it shall be proportionately reduced.

92. *Contents of decree or formal order.*—(1) The decree or formal order shall be drawn up in English and shall bear date of the day on which the judgment or order upon which it is founded was delivered.

(2) It shall contain the nature, number and year of the case, the names and descriptions of the parties, the names of their Advocates and a clear specification of the relief granted or other adjudication made.

(3) It shall state the amount of costs incurred in the case and by whom and in what proportions such costs and costs in the court or courts below, if any, are to be paid.

93. *Notice of decree or formal order for objection.*—As soon as the decree or formal order has been drawn up, the Registrar shall cause to be exhibited on a notice board placed in a conspicuous position in the Court building and open to the public, a notice stating that the decree or formal order has been drawn up. The notice shall further state that any party to it or his Advocate may on or before a date to be specified in the notice peruse the same and sign it or file with the Registrar an objection thereto on the ground that in his view there is a clerical error or omission in the decree or formal order or that it is not in accordance with the judgment or order upon which it is founded. Such objection, if any, shall state clearly what the alleged clerical error or omission is or in what respect the decree or formal order is not in accordance with the

judgment or order. It shall be signed and dated by the party or the Advocate filing it.

94. *Procedure on objection.*—Where an objection is filed under the next preceding Rule, the Registrar shall after giving notice to the parties concerned decide such objection with liberty to adjourn any matter to the Judge by whom such judgment or order was delivered in Chambers. If such Judge is not available, the matter shall be put up before such Judge as the Chief Justice may nominate.

95. *Decree or formal order to be signed and sealed.*—(1) After the decree or formal order has been corrected or altered as directed by the Registrar or the Judge, as the case may be, it shall be signed by the Deputy Registrar and sealed with the seal of the Court.

(2) If no objection is filed, the Deputy Registrar shall sign the decree or formal order and seal it with the seal of the Court on the expiry of the date specified in the notice.

## CHAPTER VIII

### *Miscellaneous Provisions.*

#### SECTION A. SEAL OF THE COURT.

##### *Notes.*

Rule has been framed in pursuance of section 11 of the Rajasthan High Court Ordinance which reads as under:—

The High Court shall have and use as occasion may require a seal bearing a device and impression of the Coat of Arm of Rajasthan with an exergue or label surrounding the same with the inscription "The Seal of the High Court of Judicature for Rajasthan". The said seal shall be delivered to and kept in the custody of the Chief Justice or of an Officer of the Court from time to time nominated by the Chief Justice :

Provided that until such a seal is prepared the High Court may use a rubber stamp bearing the said inscription.

96. *Seal of the Court.*—The seal of the Court shall be delivered to and kept in the custody of the Chief Justice or of an officer of the Court from time to time nominated by the Chief Justice.

All writs, summonses, precepts, rules, orders and other mandatory processes to be used, issued or awarded by the Court shall be sealed with the said seal.

##### *Notes.*

In rule 96 para 2, the words "shall run and be in the name and style of the President of India and" as previously occurring between the words "awarded by the Court" and "shall be sealed with the said seal" have been deleted through amending Notification No. 20/S.R.Q. dated 14-10-53. published in Rajasthan Rajpatra dated 31-10-53, part II.

#### SECTION B. CIVIL JURISDICTION OF THE COURT.

97. *Application for declaration that the case is a fit one for appeal in the case of a judgment by one Judge.*—Where a Special Appeal from the judgment of one Judge does not lie unless such Judge has declared that the case is a fit one for appeal, an application for such declaration may be made orally before or at the time when the judgment is delivered. No such application shall be entertained later. The Court shall thereupon record an order granting or refusing to grant such declaration.

## SECTION C. SERVICE OF NOTICE.

98. *Service of notice by post or publication.*—Any notice may in lieu of or in addition to any other mode of service provided by law or by these Rules be served, if so ordered, by sending it by registered post addressed to the person upon whom it is to be served or by publishing it in a newspaper.

A notice served by registered post shall, unless it is received back from the post office as undelivered, be deemed to have been served at the time at which it would be delivered in the ordinary course of post

99. *Presumption of service in case of a notice sent by registered post*—Where a notice has been sent by registered post it may be presumed to have been duly served if—

- (i) the cover containing the notice is not returned back as undelivered by the post office within one month of the date of despatch of such cover.
- (ii) the cover is received back with an endorsement purporting to be by a postal servant stating that the addressee refused to receive the cover containing the notice; or
- (iii) where the notice was sent acknowledgment due, an acknowledgment purporting to have been signed by or on behalf of the addressee is received from the post office.

## SECTION D. FORMS OF OATHS.

100. *Forms of oaths and affirmations.*—The following forms of oaths and affirmations are prescribed under section 7 of the Indian Oaths Act, 1873, namely:—

**FORM OF THE OATH OR AFFIRMATION TO BE  
ADMINISTERED TO THE WITNESS.**

I swear in the presence of Almighty God (or solemnly affirm) that the evidence which I shall give to the court shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

SO HELP ME GOD.

**FORM OF THE OATH OR AFFIRMATION TO BE  
ADMINISTERED TO THE INTERPRETER.**

I swear in the presence of Almighty God (or solemnly affirm) that I understand and speak the .. . . . and .. . . . languages, and that I will well and truly and faithfully interpret, translate and explain all questions and answers and all such matters as the court may require me to interpret and explain.

SO HELP ME GOD.

**FORM OF THE OATH OR AFFIRMATION TO BE  
ADMINISTERED TO THE JUROR.**

I swear in the presence of Almighty God (or solemnly affirm) that I will well and truly try and true deliverance make, between the State and the prisoner at the bar, and give a true verdict according to the evidence.

## SO HELP ME GOD.

Note—The words "So help me God" are to be omitted when an affirmations is administered.

## Notes.

The above forms have been prescribed as required under section 7 of the Indian Oaths Act, 1873. Section 7 of the Indian Oaths Act provides that:—

All oaths and affirmations made under section 5 shall be administered according to such forms as the High Court may from time to time prescribe.

And until any such forms are prescribed by the High Court, such oaths and affirmations shall be administered according to the forms now in use.

## SECTION E. RECORD OF EVIDENCE.

101. *Recording of evidence.*—(1) Witnesses in attendance shall be examined orally under the direction and supervision of the Court and their evidence taken down in the form of questions and answers or in that of a narrative by a judgment writer or by such other person as may be appointed for the purpose.

(2) The evidence so taken down or, if it is taken down in shorthand, the transcript of the shorthand note shall be read and, where necessary, interpreted to the witness and shall be signed by him, and the Judge, shall also sign it after making such corrections therein as may be found necessary.

102. *Evidence recorded by another Judge.*—Except as provided by law where at any stage of the hearing of a suit or proceeding, any Judge, or Judges constituting the Bench are replaced by another Judge or Judges, such Judge or Judges may deal with any evidence taken under these Rules as if such evidence had been taken under their direction and supervision and proceed with the suit or proceeding from the stage at which it may be when the case is taken up by them.

## SECTION F. ISSUE OF COMMISSION.

103. *Deposit of expenses of commission.*—Except in criminal cases, no commission may be issued by the Court unless the party at whose instance or for whose benefit such commission is to be issued has deposited with the cashier within such time as may be fixed, such sum as the Court may consider reasonable for the expenses of the commission.

## SECTION G. FURNISHING OF SECURITY.

104. *Form of Security.*—Security furnished under the provisions of Order XLV of the Code or otherwise in pursuance of any order of the Court shall, unless otherwise ordered, be furnished in the form of cash or Government securities or Post Office National Savings Certificates or a deposit in the Imperial Bank of India or immovable property.

105. *Determination of sufficiency of Government Securities or P. O National Savings Certificates.*—In determining the sufficiency or otherwise of the security when furnished in the form of Government securities or Post Office National Savings Certificates, the value on the date on which such security is furnished and not the face value shall be taken into consideration.

106. *Endorsement in case of Government securities.*—Where security is furnished in the form of Government security, they shall be endorsed in the name of the Registrar.

107. *Procedure when Post Office National Savings Certificates are given as security.*—Where security is furnished in the form of Post Office National Savings Certificates, they shall be in the Name of the Registrar.

In such case the following procedure shall be followed, namely—

- (a) If fresh Certificates have to be purchased, the application for the purchase of such certificates shall be signed by the pledger & handed over to the Registrar along with an affidavit affirming that his total holdings in the post-office including the amount of the Certificates proposed to be pledged as security do not exceed the maximum amount prescribed for individual\* investment under the Post Office Rules.
- (b) If the Certificates stand in the name of the pledger, he shall present them to the Registrar along with an application addressed to the Postmaster at Jodhpur or Jaipur, as the case may be, praying that the Certificates be transferred to the name of the Registrar, and an affidavit as required by clause (a).
- (c) The Registrar shall, if he is satisfied that the application is in order, give the pledger an authority to the Postmaster at Jodhpur or Jaipur, as the case may be, to invest the amount as security in the following form—  
 “I hereby sanction the investment of Rs ..... in Post Office National Savings Certificates on account of security pledged to the Registrar of the High Court of Judicature at Jodhpur in ... case No . of ....”
- (d) The Pledger shall thereafter present the cash or the Post Office National Savings Certificates, as the case may be, along with the necessary papers to the Postmaster concerned who will then either issue the certificates in the name of the Registrar or transfer them to his name. The certificates shall thereafter be deposited by the pledger with the Registrar.
- (e) When the security is to be released, the Registrar shall return the certificates to the pledger giving him written authority to resume possession. The pledger may thereafter present such authority and the certificates at the post office concerned and have the certificates transferred to his own name.

108. *Fixed deposit receipt to be in Registrar's name.*—Where security is furnished in the form of a fixed deposit in the Imperial Bank of India, the fixed deposit shall stand in the name of the Registrar and the bank receipt shall be filed with him.

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\*Foot note—See Post and Telegraph Guide, Part I, Section VII-B, rules 2 (4)

109. *Particulars of security to be stated in a memorandum* — Where security is furnished in the form of cash, Government securities, Post office National Savings Certificates or a fixed deposit in the Imperial Bank of India, it shall be accompanied by a memorandum containing all necessary particulars.

110. *Security of immovable property*.—Where the security offered consists of immovable property, the person giving such security shall file a security bond duly registered hypothecating such property in the name of the Registrar and his successors in office together with (1) a specification of the title of the mortgagor, (2) an affidavit of the person executing the security bond affirming that the property secured is of sufficient value to cover the amount of security required and (3) the necessary certificate from the Registration Office concerned indicating that the property is free from encumbrances or, in case the property is encumbered, the particulars and extent of such encumbrances. The Court may before accepting such security direct that it be verified by the District Judge of the district within which such immovable property is situated.

#### SECTION H-SUMMARY DETERMINATION OF APPEAL.

111. *Application for summary determination of a First Appeal*.—(1) A respondent to a First Appeal valued at less than twenty thousand rupees who has filed no cross-objection may, on receipt of a notice to appear and answer the appeal and within thirty days of the date fixed in the notice for his appearance, make an application for the summary determination of the appeal on the ground that it is frivolous or vexatious or that it has been filed merely to cause delay or that it can be disposed of on a preliminary ground and that a paper-book is not necessary for its disposal.



and appeals from appellate orders where such appeals are allowed under any law.

113. *Connecting cases.*—No application shall be required for connecting cases arising out of the same decree, judgment or order and such cases shall be connected whether there be any application or not.

When any other cases are sought to be connected, a properly stamped application shall be presented to the Registrar after giving notice to the Advocates for all the other parties to such cases. The signature of an Advocate on such application shall be sufficient indication that notice has been given to him. Any party desiring to contest the application may file an objection within ten days. Where no objection has been filed, the Registrar may pass orders on the application. Where an objection has been filed, the application shall be listed before the Court for orders.

#### SECTION J.—PAPER BOOK.

114. *Exclusion of papers from the paper book by order of the Chief Justice.*—The Chief Justice may by general order direct that any copy of paper required under these Rules to be included in a paper-book other than the paper book of a First Appeal (not being an Execution First Appeal), be not so included therein. In such case the original paper on the record of the case shall be entered in the general index and clearly flagged.

115. *Inclusion of papers in the paper book by order of the Bench.*—Where the Bench hearing the case requires any paper not on the paper book to be copied, transliterated or translated, a typed copy, or a transliteration or translation of such paper shall be included in the paper-book.

116. *Inclusion of a transliteration or translation instead of a copy in the paper book.*—The Chief Justice may from time to time issue directions as to the manner in which and the conditions according to which a transliteration or translation of any paper on the record of a case may be prepared for inclusion in the paper book instead of a copy as required by these Rules.

117. *Information on application.*—(1) Any person desirous of ascertaining the serial number and date of institution or other registered particulars respecting a case or proceeding, shall present or send by post to the Registrar a written application bearing a court-fee label of the value of 75 Naya paisas giving the best particulars he can as to the year of institution and the names of parties. The Registrar shall forward such application to the Superintendent of the department concerned, who shall have the application marked with a serial number and return it with the necessary information, if obtainable, to the applicant within three days from the date of the application or earlier, if possible. If such information cannot be given within the aforesaid period, the Superintendent shall on the expiry of the said period report to the Registrar the cause of non-compliance and specify the date when it would be possible for such

109. *Particulars of security to be stated in a memorandum* — Where security is furnished in the form of cash, Government securities, Post office National Savings Certificates or a fixed deposit in the Imperial Bank of India, it shall be accompanied by a memorandum containing all necessary particulars.

110. *Security of immovable property*.—Where the security offered consists of immovable property, the person giving such security shall file a security bond duly registered hypothecating such property in the name of the Registrar and his successors in office together with (1) a specification of the title of the mortgagor, (2) an affidavit of the person executing the security bond affirming that the property secured is of sufficient value to cover the amount of security required and (3) the necessary certificate from the Registration Office concerned indicating that the property is free from encumbrances or, in case the property is encumbered, the particulars and extent of such encumbrances. The Court may before accepting such security direct that it be verified by the District Judge of the district within which such immovable property is situated.

#### SECTION H-SUMMARY DETERMINATION OF APPEAL.

111. *Application for summary determination of a First Appeal*.—(1) A respondent to a First Appeal valued at less than twenty thousand rupees who has filed no cross-objection may, on receipt of a notice to appear and answer the appeal and within thirty days of the date fixed in the notice for his appearance, make an application for the summary determination of the appeal on the ground that it is frivolous or vexatious or that it has been filed merely to cause delay or that it can be disposed of on a preliminary ground and that a paper-book is not necessary for its disposal.

(2) The application shall be accompanied by documentary proof of the fact that a copy of the application has been served on the appellant's Advocate. Such proof may consist of an acknowledgment from such Advocate of having received the copy, a postal acknowledgment in case the copy was served on him by registered post or an affidavit showing how the service was effected.

(3) The application along with the appeal shall be listed for hearing as early as possible after the expiry of thirty days from the date when notice of the application was served on the appellant's Advocate, provided that no cross-objection has been filed in the appeal. If the Court does not summarily dismiss the appeal, it shall reject the application and thereafter the appeal shall proceed as if no application under this Rule had been made. In case a cross-objection has been filed before the application is listed for hearing, the court shall reject such application.

#### SECTION I.—CIVIL REVISIONS AND APPEALS FROM APPELLATE ORDERS.

112. *Civil revisions and appeals from Appellate orders*.—Subject to these Rules, the procedure provided in Order XLI of the Code with respect to appeals, shall, so far as may be, apply to revisions

and appeals from appellate orders where such appeals are allowed under any law.

113. *Connecting cases.*—No application shall be required for connecting cases arising out of the same decree, judgment or order and such cases shall be connected whether there be any application or not.

When any other cases are sought to be connected, a properly stamped application shall be presented to the Registrar after giving notice to the Advocates for all the other parties to such cases. The signature of an Advocate on such application shall be sufficient indication that notice has been given to him. Any party desiring to contest the application may file an objection within ten days. Where no objection has been filed, the Registrar may pass orders on the application. Where an objection has been filed, the application shall be listed before the Court for orders.

#### SECTION J.—PAPER BOOK.

114. *Exclusion of papers from the paper book by order of the Chief Justice.*—The Chief Justice may by general order direct that any copy of paper required under these Rules to be included in a paper-book other than the paper book of a First Appeal (not being an Execution First Appeal), be not so included therein. In such case the original paper on the record of the case shall be entered in the general index and clearly flagged.

115. *Inclusion of papers in the paper book by order of the Bench.*—Where the Bench hearing the case requires any paper not on the paper book to be copied, transliterated or translated, a typed copy, or a transliteration or translation of such paper shall be included in the paper-book.

116. *Inclusion of a transliteration or translation instead of a copy in the paper book*—The Chief Justice may from time to time issue directions as to the manner in which and the conditions according to which a transliteration or translation of any paper on the record of a case may be prepared for inclusion in the paper book instead of a copy as required by these Rules.

117. *Information on application.*—(1) Any person desirous of ascertaining the serial number and date of institution or other registered particulars respecting a case or proceeding, shall present or send by post to the Registrar a written application bearing a court-fee label of the value of 75 Naya paisas giving the best particulars he can as to the year of institution and the names of parties. The Registrar shall forward such application to the Superintendent of the department concerned, who shall have the application marked with a serial number and return it with the necessary information, if obtainable, to the applicant within three days from the date of the application or earlier, if possible. If such information cannot be given within the aforesaid period, the Superintendent shall on the expiry of the said period report to the Registrar the cause of non-compliance and specify the date when it would be possible for such

information to be supplied. The application shall be sent back to the applicant and the information given to him when he returns it to the Registrar after such date.

*Notes.*

The words and figures "75 Naya Paisas" have been substituted for the words "twelve annas" occurring previously vide amending Notification No. 19/S.R.O. dated 13-6-58, published in Rajasthan Rajpatra dated 26-6-58, part IV (c),

(2) Where the applicant desires that the information be sent to him by post, he shall attach to his application a postage stamp of the requisite value or a prepaid post card to enable the reply to be sent to him by post.

(3) A printed copy of this Rule in Hindi shall be posted on the notice board in a conspicuous place in the Court-House.

(4) Superintendent of the Department concerned shall maintain a register of applications made under this Rule in the form given below:—

APPLICATIONS FOR INFORMATION UNDER  
CHAPTER VIII, RULE 117.

Serial No.	Date	Name of applicant	Description of case	No. of questions asked	Value of court fee labels affixed	Date of return of application	Remarks.
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118. *Information on application by a party.*—A party to a pending case or proceeding may obtain information with respect to such case or proceeding by means of a written application. A fee of four annas for every question asked shall be paid in court fee labels affixed to the said application.

The questions asked must be of a simple nature admitting of a short answer and in no circumstances shall the right conferred by this Rule be so exercised as to be a substitute for obtaining more detailed information by an inspection of the record or by an application for copy.

An application under this Rule shall also be presented and dealt with, so far as may be, in the manner provided in the next preceding Rule except that the Superintendent concerned shall supply the necessary information, if possible, the same day in case the application is presented in the fore-noon and the next day in case it is presented in the after-noon.

SECTION K.—APPROVED LAW JOURNALS.

119. *Supply of copies of Judgments to approved Law Journals.*—Rules 886, 887, 895 and 897 contained in Part VIII, Chapter XXXIX Copies, shall, so far as may be, apply to the issue of copies of judgments approved for reporting to representatives of approved Law Journals. The other Rules contained in that Chapter shall not apply to such copies.

The issue of copies to representatives of such Journals shall be governed by the following provisions, namely—

- (1) An approved list of Law Journals entitled to receive copies of judgments approved for reporting under this Rule shall be maintained under the orders of the Chief Justice.
- (2) No Law Journal shall be entered in the list unless it has given an undertaking that it will apply for a copy of every judgment delivered by the Court which is marked A. F. R. (Approved For Reporting).
- (3) No Law Journal on the approved list shall be entitled to receive more than one copy of such judgment under this Rule.
- (4) As soon as judgment has been approved for reporting by the Court, the Bench Reader shall enter it in a register to be called "Register of Judgment marked A.F.R." The entries shall be made in chronological order. He shall send such judgment immediately to the Superintendent of the Judicial Department.
- (5) As soon as a judgment marked A. F. R. has been received by the Superintendent, he shall send it to the Superintendent, of the Copying Department for the preparation of as many copies as there are Law Journals on the approved list together with one copy for the Indian Law Reports (Rajasthan Series).
- (6) Two registers in the prescribed form to be called "Register of copies of judgments marked A.F.R." and "Register of Applications for copies of Judgments marked A.F.R." shall be maintained by the Superintendent of the Copying Department with respect to such copies.
- (7) Copies prepared under this Rule shall contain the following additional information, namely—
  - (i) the names of Advocates appearing in the case on both sides;
  - (ii) the names of Judges delivering the judgment of the Court; and
  - (iii) full designation of the lower court along with the date of its judgment or order,

Such additional information shall be sent to the Superintendent of the Copying Department by the Superintendent of the Judicial Department along with the judgment.

- (8) Such copies shall be given priority over all ordinary copies and shall be prepared as quickly as possible. As soon as copies are ready, the first impression copy shall be delivered to the Law Reporter representing the Indian Law Reports (Rajasthan Series) on his submitting an application for copy to the Superintendent of the Copying Department. Such application shall require no stamps. The remaining copies shall be delivered to the representa-

tives of the other Journals on the approved list on their submitting a duly stamped application and paying the necessary charges as required by the Rules.

- (9) If the representative of any Law Journal on the approved list other than the Law Reporter does not apply for any copy of any judgment marked A.F.R. within four weeks from the date of delivery of such judgment the name of such Journal may be removed from the approved list.

*Notes*

In clause (9) the words "four" has been substituted for the previous words "three" vide amending Notification No. 10/Gen. dated 12-2-53, published in Rajas-  
than Rajpatra dated 7-3-53 part II.

- (10) The "Register of Judgments marked A. F. R." shall be open to inspection by the Law Reporter or his clerk or by the representative of any Law Journal on the approved list.

SECTION L.—MISCELLANEOUS.

120. *Examination of record*.—Immediately on the receipt of a record, the office shall examine its condition and note on the form for transmission of record received along with the record the date of its receipt and its condition. The record shall there after be examined and if on such examination it is found that any paper is missing from the record or is mutilated, or that the record is in any other respect defective, a note thereof shall be made forthwith on the back of the aforesaid form and it shall be laid before the Registrar for such orders as he may deem fit to pass.

121. *Receipt of papers filed*.—Any party to a case or his Advocate desirous of obtaining a receipt for any paper including an application, Vakalatnama or retainer or appearance slip shall attach to and present with such paper a receipt slip in the subjoined form. The slip shall be signed in acknowledgment of the receipt of such paper by the Bench Reader or other official receiving such paper and returned to the person presenting it.

Description of the case	Name and description of person filing the paper.	Description of paper	Signature of official receiving the paper and date of receipt.
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122. *Transliteration or translation of documents filed in Court*.—(1) Where a document filed by a party in court in any case or proceeding is not in Hindi written in the Devanagiri character or in the language of the Court, it shall, subject to any general or special orders of the Chief Justice or the Court, file therewith if the document is in Hindi but is not written in Devanagiri character, a transliteration thereof in such character or if the document is in another language, a translation thereof in the language of the Court.

(2) Such transliteration or translation shall be verified to be correct by the Advocate or the party filing it or by the person making it. In the latter case such person shall give his full name and

address with such particulars as may be sufficient to indentify him and verify such transliteration or translation in the following manner, namely.—

“I (A. B), do declare that I read and understand the language & character of the original and that the above is a true and accurate transliteration/translation thereof.”

Such transliteration or translation shall, if so ordered by the Court, be revised and certified as correct by a translator on the establishment of the Court.

(3) In lieu of the method indicated in the foregoing sub-rule the party required to file a transliteration or translation of a document may on application to the Registrar have such document transliterated or translated, as the case may be, by a translator on the establishment of the Court and such transliteration or translation certified to be a true transliteration or translation by the Superintendent of the Translation Department may be filed in Court along with the document.

(4) The charges for the transliteration or translation of documents under this Rule shall be such as may be fixed from time to time by Registrar. Where by these Rules a transliteration or translation may be certified as correct by a translator on the establishment of the Court, the person applying for such certificate shall pay such charges as may be prescribed by the Registrar not exceeding sixty per cent of the charges prescribed for the transliteration or translation of such document. If the transliteration or translation is so defective that the work of revising and correcting it practically amounts to transliterating or translating it afresh, the full fee may at the discretion of the Registrar be charged for such work.

123. *Inconsistency of any Rule in Parts III, IV, V or VII with any other Rule.*—(1) Where any rule contained in Part III, IV, V or VII is inconsistent with any rule in any other Part, the former shall prevail and the latter shall, to the extent of such inconsistency, be deemed to have been modified or repealed so far as the former is concerned.

*Application of certain Rules in Part II to Parts III to V & VII.*—(2) Subject to the provisions of sub-rule (1), the Rules contained in Part II shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under Parts III, IV, V and VII.

124. *Forms.*—The forms set forth in the Schedule to these Rules with such variations as the circumstances of each case require, be used for the respective purposes indicated therein and in these Rules.

## Part II

### CHAPTER IX

#### APPEALS AND APPLICATIONS

125. *General heading of memorandum of appeal or application.*—Every memorandum of appeal or objection and every application, other than an application made in any case pending in

the Court, shall be in the language of the Court and shall bear the general heading—

“In the High Court of Judicature for Rajasthan”.

and shall have written on it immediately below the heading the following, namely:—

(a) in the case of a the description such as “First Appeal”, memorandum of “Execution First Appeal”, “First Appeal from appeal or objecti- Order”, “Second Appeal”, “Execution Second on or application Appeal”, “Second Appeal from Order”, “Special for review or Appeal”, “Civil Revision”, or “Application for revision. Review”, as the case may be, followed by the section and the Act or the Rule under which it is filed and the words:—

“No. of (year)”; and

(b) in the case of “Civil Miscellaneous Case No. of (year)” other applica- followed by the section and the Act or the tions— Rule under which it is filed.

126. *General heading of application in a pending case.*—

Every application made in a case pending in the Court shall be in the language of the Court and shall state the section and the Act or the Rule under which it is made. It shall bear the general heading:—

“In the High Court of Judicature for Rajasthan”

and shall have written on it immediately below such heading the following, namely:—

“Civil Miscellaneous Application No ..... of ..... in (here state particulars of the pending case)”.

127. *Application to be in writing.*—Every application for extension of time after time has been granted for depositing security or costs of translation and printing or filing an affidavit or taking any other step for the progress of a case, shall be in writing.

128. *Full description of parties.*—Every person presenting an application or arrayed as an opposite party therein shall be described with such particulars as will ensure his clear identification, such as his full name, the name of his father, his religious persuasion, his rank or degree in life, his profession, calling, occupation or trade and his true place of residence.

129. *Application to be divided into paragraphs.*—Every application containing a statement of facts shall be divided into paragraphs which shall be numbered consecutively and each paragraph shall, as nearly as may be, be confined to a distinct portion of the subject.

130. *Petition paper to be used.*—Every memorandum of appeal or objection or pleading or application required to be in writing shall be fairly and legibly written or type written, lithographed or printed with quarter margin, on one side only on petition paper:

Provided that the Court may, when considered necessary, permit any other paper of foolscap size or both sides of the paper to be used for the purpose.



## Notes

The words "Government water marked paper" wherever they occurred have been substituted by the words "petition-paper" vide amending Notification No. 5/S R.O. dated 8-1-55, published in Rajasthan Rajpatra dated 5-2-55-part IV (c).

131. *Contents of memorandum of appeal or application for review or revision.*—Every memorandum of appeal or application for review or revision shall state.—

- (a) the name and address of each appellant or applicant, and whether he was plaintiff or defendant or applicant or opposite party in the court of first instance;
- (b) the name and address of each person whom it is proposed to join as respondent or opposite party and whether he was plaintiff or defendant or applicant or opposite party in the court of first instance;
- (c) the name of the court by which, and the name of the presiding officer by whom, the decree or order objected to was made;
- (d) the number and description of the case;
- (e) the date when such decree or order was made;
- (f) the grounds, numbered consecutively, of objection to such decree or order;
- (g) the precise relief sought;
- (h) value for purposes of (1) jurisdiction and (2) court-fee; and
- (i) in the case of an appeal from an original decree, whether the suit out of which the appeal arises has already been before the Court on appeal, and the particulars of such appeal if any, and shall be signed by the appellant or applicant, as the case may be or, on his behalf, by an Advocate on the roll of the court.

Where the particulars mentioned in clause (i) are not available at the time of the filing of the appeal, they may be supplied as soon as available.

132. *Documents to accompany memorandum of appeal or revision application.*—Every memorandum of appeal or application for revision shall be accompanied by:—

- (a) a copy of the decree or formal order against which the appeal or application is directed;
- (b) a copy of the judgment upon which such decree or formal order is founded;
- (c) a copy of the judgment of the court of first instance where the appeal or application is directed against an appellate decree or order;
- (d) in the case of a memorandum of appeal which is filed after the expiry of the period of limitation, an application supported by an affidavit for extension of the period of limitation under section 5 of the Indian Limitation Act, 1908:

"Provided that if the copies of the judgments referred to above are hand-written, they shall further be accompanied by uncertified typed copies.

Provided that the Court may for sufficient cause shown dispense with 'a copy of the formal order under clause (a) or a copy of the judgment under clause (b) or (c).

#### Notes

First proviso stands substituted vide notification No. D.

133. *Certain grounds in memorandum of appeal to be certified.*—If one of the grounds of appeal be that there is no evidence or admission on the record to support the decree, the fact shall be mentioned in the memorandum which shall also state specifically the material finding or findings in support of which there is no evidence or admission on the record.

Such ground shall not be allowed to be urged unless the Advocate for the appellant has certified under his hand before the hearing of the appeal that he has examined the record and that the ground is well founded.

134. *Special Appeal.*—A person desiring to prefer a Special Appeal from the judgment of a Single judge shall present a duly stamped memorandum of appeal within sixty days from the date of such judgment. Where such appeal is presented after the period mentioned above, it shall be accompanied by an application supported by an affidavit explaining the cause of delay and it shall be rejected unless the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within the aforesaid time.

The memorandum of appeal shall be drawn up so far as may be in accordance with Rules 125, 130 and 131 of this Chapter out no copy of the judgment or decree appealed from shall be required.

135. *Memorandum of appeal or objection or application to be accompanied by copies thereof.*—(1) Every Memorandum of appeal or objection and every application shall be accompanied by typed copies as under:—

- (i) two extra copies in a Division Bench case, and one extra copy in every other case; and
- (ii) as many further copies as there may be parties to be served.

It shall be deemed sufficient compliance with this rule if the person presenting the memorandum or application gives a written undertaking to supply copies mentioned in clause (ii) above within three days of its admission.

- (iii) One extra copy (in addition to (i) and (ii) above) in cases of appeals or writs from orders of the Election Tribunals for transmission to the Election Commission.

#### Notes

Previously Rule 135 (1) was as under:—

135. *Memorandum of appeal or objection or application to be accompanied by copies thereof.*—(1) Every memorandum of appeal or objection and every application shall be accompanied by as many typed copies thereof as there may be parties to be served, together with:—

- (i) two extra copies in a Division Bench case, and
- (ii) one extra copy in every other case.

It shall be deemed to be sufficient compliance with this Rule if the person presenting the memorandum or application gives a written undertaking to supply the necessary copies within three days of its admission.

The present rule 135 (1) stands in substituted form vide amending Notification No. 1/S.R.O. dated 11-1-58, published in Rajasthan Rajpatra dated 6-2-58 part IV (c). This substitution was further amended by an addition of clause (iii) vide amending Notification No. 21/S.R.O. dated 30-7-58, published in Rajasthan Rajpatra dated 14-8-58 part IV (c) resulting in the present rule 135 (1) as above.

(2) If the requisite copies are not supplied within such time or within such further time as may, for sufficient cause shown, be allowed by the Registrar, the memorandum or application shall be listed for rejection before the Court.

(3) No order shall issue from the Court on such memorandum or application until the required copies have been supplied.

136. *Affidavits to accompany certain applications.*—(1) The following applications shall be accompanied by an affidavit setting out in the form of a narrative the material facts and circumstances including names and dates, where necessary, on which the applicant relies, namely:—

(i) an application for review made on the ground of the discovery of new and important matter or evidence or any other sufficient reason;

(ii) an application for stay of execution or proceedings;

(iii) an application for the vacating of an order for stay;

(iv) an application for security, including an application under rule 6 or 10 of Order XLI of the Code;

(v) an application for attachment before judgment or injunction or any other application under Order XXXVIII or XXXIX of the Code;

(vi) an application for the appointment or discharge of a receiver;

(vii) an application for the re-admission or restoration of an appeal or application dismissed for default of appearance or for want of prosecution or for the setting aside of an *ex parte* decree;

(viii) an application for substitution of parties including an application under rule 3 (i) or 4 of Order XXII of the Code or for a note to be made on the record that the legal representative of a deceased party is already on the record or that a party has died without leaving any legal representative;

(ix) an application for the appointment or removal, of a guardian *ad litem* or next friend;

(x) an application under rule 12, 13, 14 or 15 of Order XXXII of the Code;

(xi) an application for the transfer of a case including an application under section 22 of the Code;

(xii) an application praying that a person be punished for contempt of Court;

(xiii) an application by way of complaint against a legal practitioner;

(xiv) an application under section 5 of the Indian Limitation Act, 1908;

(xv) an application for the setting aside of an abatement;

(xvi) any other application setting out facts on the basis of which an order is sought; and,

(xvii) any application which is required by these Rules or by any other law to be supported by an affidavit

(2) The Court or the Registrar may call for an affidavit in any other matter coming up before it or him.

137. *Affidavit in reply.*—Any person opposing the grant of an application or showing cause against a rule may bring before the Court any facts or circumstances not contained in the application or affidavit of the other party, by an affidavit containing in the form of a narrative the material facts and circumstances on which he relies.

138. *Affidavit in review application.*—The affidavit accompanying an application for review on the ground of the discovery of new and important matter or evidence shall be made by the applicant himself stating in clear terms what such new or important matter or evidence is, the effect or purport thereof, how the same, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made and how and when he came to know of it or became able to produce it.

139. *Affidavit in an application for stay.*—The affidavit accompanying an application for stay of execution of or proceedings under a decree or order shall contain such of the following particulars as may be material to such application, namely:—

(a) the date of the decree or order;

(b) the particulars and nature of the suit to which the proceedings relate and the court to which the stay order is to be communicated;

(c) the date of the order for sale, if any;

(d) the date fixed for the sale, if any;

(e) the grounds upon which the stay is sought; and

(f) where stay is sought under rule 5 (i) of Order XLI of the Code, the facts necessary to satisfy the Court as to the matters mentioned in sub-rule (3) of that rule.

140. *Advocate's Certificate as to sufficiency of court-fee.*—Where an application for stay of execution of, or proceedings under, a decree is presented through an Advocate before the admission of the appeal in which the application is made, it shall also bear a certificate of such Advocate stating that to the best of his knowledge and belief the full court-fee payable on the memorandum of appeal has been paid.

141. *Affidavit in application for readmission or the setting aside of an ex parte decree.*—(1) The affidavit accompanying an application for the re-admission of an appeal or application dismissed for default of appearance, shall state the circumstances in which

such default was made, and whether or not the party concerned had, previous to such dismissal, engaged an Advocate to conduct such appeal or application. If an Advocate had been so engaged; the affidavit shall further state, on the personal knowledge of the deponent and not merely on his information and belief, the name of such Advocate, the date when he was engaged, the amount of fee agreed to be paid and whether full fee had been paid to him before the date of such dismissal.

(2) The provisions contained in sub-rule (1), shall with necessary adaptations and modifications apply to an affidavit accompanying an application for the setting aside of an *ex parte* decree or order.

142. *Affidavit in application or substitution.*—The affidavit accompanying an application to bring on record the legal representatives of a deceased party shall state the precise date of the death of the party concerned.

143. *Affidavit in application, for appointment of guardian or next friend.*—(1) The affidavit accompanying an application for the appointment of a guardian *ad litem* or next friend of a minor shall state —

- (a) Whether or not the minor has a guardian appointed under the Guardians and Wards Act, and if so, his name and address;
- (b) the name and address of the father or other natural guardian of the minor;
- (c) the name and address of the person in whose care the minor is living;
- (d) how the person sought to be appointed guardian or next friend is related to the minor;
- (e) that the person sought to be appointed guardian or next friend has no interest in the matters in controversy in the case adverse to that of the minor and that he is a fit person to be so appointed; and
- (f) whether the minor is less than ten years of age.

(2) The provisions contained in subrule (1) shall apply *mutatis mutandis* to an affidavit accompanying an application for appointment of a guardian *ad litem* or next friend of a person of unsound mind.

144. *Prayer for an order of interlocutory nature.*—A prayer for stay of execution or proceedings or for the vacating of an order staying execution or for admitting additional evidence, or for any other order of an interlocutory nature shall not be contained in the memorandum of appeal or the application for revision to which it relates, but shall be made by a separate application.

145. *Defective application or memorandum of appeal or objection may not be received.*—No application or memorandum of appeal or objection shall be received if it is not in the proper form or is not accompanied by the necessary documents:

Provided that the Registrar, may receive it and for sufficient cause shown, grant such time as he may consider proper for supplying such documents or removing such defects: and

Provided further that nothing done under the first proviso shall have the effect of extending the period of limitation in the case of a memorandum of appeal where the copy of the judgment or decree or formal order is not filed within the prescribed time.

If the required documents are not supplied or the defects are not removed within the time allowed by the Registrar, the application or memorandum of appeal shall be listed for rejection before the Court.

145A. An application or petition, not being an application for a copy or an application for information, received through post shall be returned to the sender with a note that it should be presented according to law; provided that necessary postage stamps have been received with such application or petition; otherwise it shall be filed in a filebook.

#### Notes

This rule was newly added vide amending Notification No. 16/S.R.O. dated 26-8-53, published in Rajasthan Raj-patra, dated 19-9-53 part II.

146 *Certain copies not to be returned.*—No copy of a judgment, decree or formal order accompanying a memorandum of appeal or an application for revision shall be returned unless such memorandum or application itself is ordered to be returned.

### CHAPTER X

#### APPEAL OR APPLICATION BY OR AGAINST LEGAL REPRESENTATIVE ASSIGNEE ETC.

147. *Appeal by legal representative, assignee etc.*—Where by a decree or order which is appealable to the Court, the interest of—

- (a) a legal representative as such of a deceased party to such decree or order, or
- (b) an assignee of a party to such decree or order by assignment subsequent to the date of the decree or order, or
- (c) a beneficiary in such property as was, at the date of such decree or order, vested in, or in the possession of a trustee, executor or administrator or a receiver or manager appointed by a court, who as such was a party to such decree or order, or
- (d) a person whose interest arose after the date of such decree or order by reason of any creation or devolution of interest by through, or from any party to such decree or order, is affected, and such legal representative, assignee, beneficiary or person desires to appeal therefrom, he may name himself in the memorandum of appeal as an appellant

He shall also present along with such memorandum of appeal an application for leave to make himself an appellant, accompanied by an affidavit stating such facts as may be necessary to support his application:

Provided that no such application shall be required if such legal representative, assignee, beneficiary or person, has already been made a party to any proceeding under the decree or order appealed from subsequent to the date on which it was passed. In such case a note to that effect shall be made in the memorandum of appeal.

148. *Appeal against legal representative of deceased party.*—Where a person has died after the date of an appealable decree or order to which he was a party, any other party to the decree or order who wishes to appeal therefrom, may enter the name of the legal representative of the person who has died, in the memorandum of appeal as a respondent if that person would, if alive, have been a necessary or proper party to the appeal. The appellant shall also present along with his memorandum of appeal an application for leave to make such legal representative a respondent to the appeal, accompanied by an affidavit stating such facts as may be necessary to support his application:

Provided that no such application shall be required if such legal representative has already been made a party to any proceeding under the decree or order subsequent to the date on which it was passed. In such case a note to that effect shall be made in the memorandum of appeal.

149 *Appointment of legal representative of deceased party after the filing of the appeal*—Where after a memorandum of appeal has been presented to the Court, any appellant or any party interested in the maintenance of an objection filed under rule 22 of Order XLI of the Code, is informed that any person who is arrayed as a party in such appeal or objection had died before the memorandum of appeal was presented but after the decree or order appealed from was passed, he may subject to the law of limitation make an application for an order that the memorandum of appeal be amended by substituting for the person who is dead, his legal representative. The application shall be accompanied by an affidavit stating such facts as may be necessary to support the application.

150. *Death of party after hearing but before judgment.*—For the purposes of Rules 147, 148 and 149 a person who died after the conclusion of the hearing but before the pronouncement of the judgment or order appealed from shall be deemed to have died after the date of the decree or order.

151. *Time may be allowed for filing an affidavit.*—(a) When an application is presented under Rule 147, 148 or 149 without an affidavit, the Registrar may allow reasonable time for the presentation of such affidavit, if he is satisfied that the applicant could not by the exercise of due diligence have procured it in time for presentation along with the application.

(b) Where the required affidavit is not presented within the time allowed by the Registrar, the application shall be listed for rejection before the Court.

152. *Substitution to operate in respect of all future proceedings in the case*—Where the legal representative of a deceased party has been brought on the record on an application under Rule 147, 148 or 149, such substitution shall operate in respect of all future proceedings in the case.

153. *Special Appeals and applications for review and revision.*—Rules 147 to 152 shall, with necessary modifications and adaptations, also apply to Special Appeals and applications for review and revision.

## CHAPTER XI

### PRESENTATION OF APPEALS AND APPLICATION.

154. *Presentation of petition and memoranda of appeals etc*—Memoranda of appeal, memoranda of objection under Order XXI, rules 22 and 26, Code of Civil Procedure, and petitions shall be presented to the official appointed for the purpose by the Registrar who shall immediately fix a date not more than a week ahead. On that date the party filing the memorandum or petition, or his counsel, should attend in office to ascertain the progress of the matter. The official concerned shall in the interval examine the memorandum or petition with a view to seeing whether it is in order, properly stamped and within time and submit the result in the prescribed form to the Registrar.

155. *Register of petitions.*—All such memoranda and petitions shall after presentation in the proper form and bearing the proper court-fee stamps be registered in the Register of petitions.

156. *Dispensing with the production of copy of Judgment.*—If it is desired that a copy of any judgment or formal order required to be filed along with a memorandum of appeal presented under this Rule be dispensed with, a note to that effect shall be made on the memorandum. If no such note is made, a subsequent request for that purpose shall not be entertained. Where such note has been made, the Registrar shall pass suitable orders.

If such copy is not dispensed with, the period between the day on which the appeal was presented and the day on which the order is made shall not be excluded in computing the period of limitation for the appeal unless the court on an application received under section 5 of the Limitation Act otherwise direct, but if the copy is dispensed with, the appeal shall be deemed to have been duly presented on the day on which it was filed.

157. *Counsel to be informed of defect.*—(1) If a memorandum of appeal or objection presented under Rule 154 is reported to be defective in any way, the office report shall be shown without delay to the advocate of the appellant or objector, as the case may be, and the latter shall initial it at once in token of his having been informed of such defect.

(2) *Time for filing objection to office report.*—If the office report is contested, such advocate shall file his objection within seven days and the objection along with the report shall be listed immediately.



for orders before the Registrar. If the Registrar allows the objection, he shall proceed to deal with such appeal or objection as if it has been reported to be in order.

(3) If the office report is not contested or no objection is filed within the aforesaid period or if an objection is filed and rejected by the Registrar, the defect shall be removed within two weeks from the day on which the report was shown to such advocate or the day on which the objection was rejected, as the case may be, or within such further time as the Registrar may allow. If such defect is not removed within such time the memorandum shall be listed for rejection before the Court and shall be rejected unless the Court on a written application supported by an affidavit deems fit to grant further time for the removal of such defect:

Provided that no order passed under the provisions of this Rule shall be deemed to extent the period of limitation.

158 *Issue of notice by Registrar in certain Cases.*—First appeals under section 18 of the Rajasthan High Court Ordinance, and references under sub-sections (1) and (2) of section 66 of the Indian Income-tax Act, if found in order, shall be submitted to the Registrar for an order for the issue of notice for hearing parties

159. *Hearing by bench.*—In the case of appeals, petitions and application other than those dealt with under rule 158, the Registrar shall fix a date for hearing by the appropriate Bench. Intimation of the date shall be given to the party or his counsel and his signature taken on the order sheet in token of receipt of intimation.

160. *Calling of record.*—The record of the case shall be sent for when an appeal is admitted, or when the Court otherwise orders that the record be called for.

161. *Petitions for expedition disposal.*—If a party desires any particular petition or application to be disposed of expeditiously, he should present a separate stamped petition in that behalf and the urgent petition or application will thereupon be placed by the Registrar before the Court as early as possible.

162. *Petitions for stay of execution.*—Petitions for stay of execution unless accompanied by a petition for urgent disposal under rule 161 above will be put up with the case on the date fixed for the admission of the case:

Provided that petitions for stay of execution filed in appeals under section 47, Civil Procedure Code, which are to be heard by a Division Bench, shall be placed before a Single Bench which shall dispose of the petitions for stay of execution only.

## CHAPTER XII.

### SERVICE OF NOTICE AND SUMMONING OF RECORD

163. *Issue of notice and requisition for record.*—Where an order has been made directing notice of an appeal, revision or reference to issue, the office shall take immediate steps to cause notice thereof to be served on such persons as are indicated in rule 171 and shall also give notice thereof to the court from whose

decree or order the appeal or revision has been presented or by which the reference has been made. The office shall, if not directed otherwise, also send a requisition to such court asking it to transmit within ten days of the receipt of such requisition all material papers of the case or, if so directed, a part thereof, unless such record has already been received.

164. *When record not to be summoned at once.*—Where a record is required from a subordinate court in an appeal or revision form an interlocutory order while proceedings in the case are pending in that court, it shall not be sent for at once and only information of the fact that all material papers in the case would be sent for when actually required shall be sent, and that court shall submit the record immediately on receipt of intimation that the appeal or revision is ready for hearing.

In case such record is requisitioned at the special request of a party, it shall be sent back to the court concerned as soon as possible and recalled only when the appeal or revision is ready for hearing.

A case shall not be listed for hearing before the expiry of two months after the receipt of the record under this and the next preceding Rule.

165. *No notice to be issued or record to be summoned unless requisite process fee or cost is paid and notices supplied.*—Notwithstanding anything contained in the foregoing Rules, no notice shall be issued in a case in which process fee or cost of issuing notice is leviable, unless the requisite process-fee or cost has been paid and notices in duplicate in the prescribed form duly filled in, have been supplied for service, within fifteen days from the date on which the order for the issue of notice is made, or unless such fee or cost has been paid and such notices have been supplied under the next following Rule and the court has condoned the delay.

#### Notes.

The word "fifteen" occurring between the words "within" and "days" has been substituted for original word "seven" vide amending Notification No. 23/S.R.O. dated 1-10-55, published in Rajasthan Rajpatra dated 5-11-55 part IV (c).

166. *Effect of non-payment of process fee or cost of supply of notices within time.*—If the requisite process fee or cost of issuing notice is not paid or the requisite notices are not supplied within the time prescribed in rule 165, the appeal, or application, as the case may be, shall be listed before the Court for dismissal and shall be dismissed unless on case being called, an application signed by the party or his advocate or brief holder together with the requisite process fee, cost or notices, as the case may be, is presented to the Court for condonation of delay and the Court deems fit to grant it.

167. *No party entitled to summon record without payment of requisite costs.*—Except as provided in rule 163 and 164, no record shall be summoned from another court at the instance of a party unless the cost of summoning such record, if any, has been previously, paid by such party.

168. *Objection as to the amount of process fee etc. to be decided by the Registrar.*—Where objection is taken as to the correctness of the amount of process fee or cost of issuing notice or of summoning a record demanded by the office, the Advocate concerned or his clerk shall immediately bring the matter to the notice of the Registrar who shall decide such objection forthwith.

169. *Contents of notice.*—The notice of an interlocutory application or an application for review shall be to appear and show cause why the application be not granted and the notice of an appeal, reference, or application shall be to appear and answer such appeal, reference or application. The date for appearance shall be fixed with due regard to the current business of the Court, the place of residence of the person to be served, the time required for service and the time necessary for entering appearance after service of notice has been effected.

Every notice shall be in the prescribed form.

170. *Particulars to be noted in the notice by party.*—All the required particulars except the date fixed for appearance and the date of issue of notice shall be legibly entered in every notice before it is supplied to the office. Where there is a registered address, such address alone shall be entered followed by the letters 'R. A.' in red ink or red chalk. Where no such address exists, the fact shall be clearly indicated in the notice.

171. *Persons to whom notice shall go.*—Unless otherwise ordered:—

- (a) notice of an appeal shall be issued to all respondents and proposed respondents;
- (b) notice of an application in revision shall be issued to all opposite parties or proposed opposite parties;
- (c) notice of a reference shall be issued to all parties to the case;
- (d) notice of an interlocutory application shall be issued to all parties to the case other than the applicant provided that no notice or such application shall be issued to a person who has not filed a registered address and who is not represented in this Court by an Advocate;
- (e) notice of an application for appointment of a guardian shall also be issued to—
  - (i) the proposed guardian,
  - (ii) the minor, if he is not less than ten years of age, and
  - (iii) the natural guardian of the minor;
- (f) notice of an application for the removal of a guardian shall also be issued to—
  - (i) the guardian sought to be removed,
  - (ii) the proposed guardian, and
  - (iii) the minor, if he is not less than ten years of age;
- (g) notice of an application for the transfer of a case shall be issued to all parties to the proceeding sought to be trans-

ferred, other than the applicant;

- (h) no notice of any proceeding, relating to a Supreme Court Appeal shall be issued to any person who is not proposed to be made a respondent to such appeal;
- (i) no notice of an application for stay of execution shall be issued to any judgment debtor; and
- (j) no notice of an application for injunction shall be issued to any person other than the person sought to be restrained.

172. *Service of notice.*—The provisions of Order V of the Code shall apply to the service of notice in all proceedings in this Court:

Provided that.—

- (a) where a party is represented by an Advocate, notice of any proceeding in the case shall, unless ordered otherwise, be served on such Advocate;
- (b) notice to a person residing in a presidency town or notice of an interlocutory application may be sent by registered post.
- (c) where the Registrar or the Court directs that a notice be served in a particular manner, it shall, notwithstanding anything contained in this Rule, be served in such manner.

173. *Application for summoning record register or document.* Any party desiring to summon a record, register or document from a court or office shall make an application to the Registrar for that purpose. Such application shall—

- (a) be signed by the party or his Advocate,
- (b) be accompanied by a statement signed by the Advocate stating—
  - (i) that such record, register or document was before the lower court and that in his opinion the summoning thereof is necessary for supporting or opposing the appeal or other proceeding in which the application is made, or
  - (ii) that the record, register or document was not before the lower court and giving reasons why it is necessary to summon it; and
- (c) contain all such particulars as may be necessary to enable such record, register or document to be summoned, including:—
  - (i) the name of the court or the office from where the record, register or document is to be summoned;
  - (ii) the description of such record, register or document;
  - (iii) in the case of a register or document, the language in which such register or document is written and the date and the year, if any, which it bears;
  - (iv) in the case of a register or document forming part of any record, the date on which such register or docu-

ment was filed and a description of such record including the date of decision, if any, and

- (v) where the record desired to be summoned is the record of a decided case, the date when the case was decided:

Provided that the Registrar, if otherwise satisfied that the summoning of a record, register or document is necessary, may dispense with the statement mentioned in clause (b), or if not satisfied by such statement that a record, register or document is relevant or material, may before summoning it, require an affidavit, stating clearly how it is relevant or material: and

Provided further that the Court may at any stage of the proceeding, if satisfied that the summoning of a record, register or document is necessary, dispense with such application or statement.

174. *Deposit of cost for summoning record, register or document.*—No requisition for a record, register or document ordered to be summoned at the expense of a party, shall be issued by the office, unless the cost of summoning it and, if the record ordered to be summoned includes registers or account books, an equivalent additional sum in respect of each such register or account book, is deposited as cost with the cashier:

Provided that if the party at whose expense a record has been ordered to be summoned deposits only the cost of summoning the record and does not specify in his application the registers or the account books to be summoned, only the record without such registers and account books shall be sent for. 40392

### CHAPTER XIII

#### PAPER BOOK IN FIRST APPEAL

175. *Interpretation.*—In this Chapter, unless the context otherwise requires—

- (a) "Necessary papers" mean papers mentioned in clauses (a) to (g) of rule 176.
- (b) "Application for translation and printing" means an application by a party made with a view to certain papers being copied or transliterated or translated, and such copies, transliteration or translations being typed or printed in accordance with the Rules contained in this Chapter. Expressions such as "translate and print" or "translated and printed" shall have cognate meanings;
- (c) "First Appeal" does not include an Execution First Appeal.

176. *Paper book in First Appeal.*—(1) The paper book in a First appeal shall consist of a fly-sheet, an index and copies, transliterations or translations of the following papers, namely:—

- (a) plaint;
- (b) written statement;
- (c) further pleadings, if any;
- (d) Statements of parties or their pleaders recorded under rules 1 and 2 of Order X of the Code;
- (e) Judgment under appeal;

- (f) decree under appeal;
- (g) memorandum of appeal;
- (h) such evidence, oral or documentary or other papers as the appellant may wish to refer to;
- (i) memorandum of cross-objection, if any, and
- (j) such other evidence, oral or documentary or other papers as the respondent may wish to refer to

(2) No translation shall be required of any papers or documents which are written in the Hindi language in cases of which the valuation is below Rs. 20,000/-.

177. *Paper book to be printed when valuation is Rs. 20,000 or more.*—The paper book in First Appeals valued at twenty thousand rupees or more shall be printed. In other First Appeals, unless otherwise ordered, it shall be typewritten. In computing the value of an appeal for the purpose of this Rule, the value of the cross-objection filed therein shall be added to the value of the appeal.

178. *When preparation of paper book to be under taken.*—The preparation of a paper book under this Chapter shall not be undertaken unless:—

- (a) the appellant has made an application for translation and printing; or
- (b) where the appeal has been dismissed but the cross-objection, if any, subsists, the respondent filing the cross-objection has made an application for translation and printing.

179. *No paper to be included in paper book without application.*—Unless otherwise ordered, no paper shall be copied, transliterated, translated, typed or printed for inclusion in the paper book under this Chapter except on an application by a party to the appeal.

180. *Appellant to include in his application all papers he may wish to refer to.*—It shall be the duty of the appellant to apply for the translation and printing of all the evidence and papers, whether produced by him or by the respondent, to which he wishes to refer at the hearing either for the purpose of showing that the decision appealed against is erroneous or for the purpose of supporting his case.

181. *Notice of receipt of record.*—(1) The Deputy Registrar shall, as soon as possible after the record in a First Appeal has been received, exhibit a notice of its receipt in the Day's List on two consecutive working days:

Provided that in the case of an appeal which may be summarily determined under rule 111 of Chapter VIII, no such notice shall be exhibited until the time for the making of an application for its summary disposal has expired or, where an application for such summary disposal has been made, unless such application has been rejected.

(2) The Deputy Registrar shall keep a record of the dates on which such notice was exhibited in the Day's list.

(3) The Deputy Registrar shall also cause to be exhibited on the notice board for thirty consecutive days commencing from the

date when the notice was first exhibited in the Day's List, a notice stating that the record has been received.

182. *Time allowed for making application for translation and printing.*—The following times are prescribed for the making of an application for translation and printing, namely:—

- (a) for an application by the appellant, thirty days from the date when notice of the receipt of record is first published in the Day's List and exhibited on the notice board;
- (b) for an application by the respondent, thirty days from the date when he is served with notice of the appeal, or ten days from the date fixed for entering appearance or ten days from the date on which the appellant files his first application for translation and printing, whichever is the latest;
- (c) for an application by the respondent where an appeal is dismissed for want of prosecution but the cross-objection subsists, thirty days from the date on which the appeal is so dismissed:

Provided that where no application for translation and printing has been made within the prescribed time, the Registrar may, on an application made in this behalf, if satisfied by affidavit or otherwise that an application for translation and printing could not be made within the prescribed time, grant further time for the making of such application or, if an application for translation and printing has already been made, condone the delay in the making of such application. Such application shall be deemed to have been made within the prescribed time.

183. *Application for translation and printing to be made within the prescribed period.*—(1) The appellant shall apply for the translation and printing of necessary papers within the prescribed time.

(2) The respondent shall apply for the translation and printing of the memorandum of cross-objection and where an appeal has been dismissed under the next following Rule, also for the translation and printing of the papers mentioned in clauses (a) to (f) of rule 176 within the prescribed time.

(3) Except as provided in rule 211, the cost of translating and printing any paper other than the necessary papers or the memorandum of cross-objection shall not be taxed as costs and the hearing of the appeal shall not be deferred unless the application for the translation and printing of such paper was made within the prescribed time. A party may either include such paper in the application under sub-rule (1) or (2) or make a separate application for the purpose within the prescribed time.

184. *Appeal or cross objection to be dismissed if no application made within the prescribed time.*—Where the appellant fails to make an application as required by sub-rule (1) of rule 183 or the

respondent fails to make an application as required by sub-rule (2) of that rule, or the appellant or the respondent fails to make the necessary correction in the description of any paper mentioned in clauses (a) to (g) or (i), as the case may be, of rule 176 when so required by the Editor, the appeal or the cross-objection, as the case may be, shall be listed for dismissal before the Court and shall be dismissed unless on an application in writing made in this behalf, the Court for sufficient cause shown grants further time for the making of such application or correction. An application for translation and printing made within the time so allowed by the Court shall be deemed to have been made within the prescribed time.

185. *Application after the prescribed time.*—Subject to the provisions of rule 183 (3), a party may apply for the translation and printing of any paper other than the necessary papers of the memorandum of cross-objection even after the prescribed time.

186. *Initial deposit.*—Before an application for translation and printing is made under these Rules, the applicant shall make an initial deposit of fifty rupees in an appeal valued at twenty thousand rupees or more or of thirty-two rupees in any other appeal:

Provided that where an application is made under rule 185 or Rule 211 of this Chapter, an initial deposit of only ten rupees shall be required.

187. *Form and contents of application.*—(1) Every application for translation and printing shall—

- (a) be on the prescribed form;
- (b) contain all the necessary particulars as indicated in the form, care being taken to insert the full name and address of the person to whom the estimate of cost or any demand subsequently arising in connection with the translation and printing of the papers mentioned in the application; may be sent;
- (c) be signed and dated by the applicant or his Advocate; and
- (d) specify at the appropriate place in the application the Rule under which it is made and the particulars of all previous applications for translation and printing made by the applicant in the appeal.

(2) If the space indicated in clause (d) of sub-rule (1) is not sufficient for entering the particulars of previous application; such particulars shall be entered on a separate sheet of Government water-marked paper appended to the application, it being endorsed on the application that further particulars are entered on such separate sheet of paper. Where no previous application was made, the words "No previous application" shall be written at the place indicated above.

188. *Presentation of application for translation and printing.*—Before an application for translation and printing is presented, the applicant shall obtain thereon an endorsement by the Superintendent of the Judicial Department specifying the amount of initial deposit



required. The applicant shall then make the necessary deposit and the cashier shall make an entry on the application indicating that such deposit has been made. The applicant shall then present the application to the Deputy Registrar who may not receive it unless it is in accordance with the last preceding Rule, provided that it shall not be necessary to check the correctness of the particulars of the papers mentioned therein until it has been put before the Editor.

189. *Amendment of application.*—An application purporting to be an application for translation and printing under rule 183 shall not be allowed to be amended either by the addition of any new paperes or by the substitution of any papers for those mentioned therein except with the consent of the parties who have put in an appearance in the case. The Editor may, however, allow the deletion of any papers other than the necessary papers or the memorandum of cross objection and shall give notice to the other party of such deletion. The other party shall have the right to apply for the translation and printing of such papers within two weeks from the date of receipt of such notice. Such application shall be deemed to have been made within the prescribed time.

190. *Scrutiny by Editor.*—(1) Every application for translation and printing made within the prescribed time shall be laid for scrutiny before the Editor who shall—

(a) examine the descriptions of the papers desired to be translated and printed and have all misdescriptions corrected and full descriptions inserted where such descriptions are incomplete; and.

(b) determine what papers shall be translated and printed and if he considers that any papers should not be translated and printed in its entirety, determine what portion or portions of such paper shall be translated and printed.

(2) If any party fails to remove the defects pointed out by the Editor in the description of any paper other than a paper mentioned in clauses (a) to (g) or (i) of Rule 176 at the time when the Editor brings the defects to his notice or within such further time as the Editor may allow, the Editor shall delete such paper from the application under his signature giving his reasons for such deletion and shall give notice thereof to the other party. The other party shall in such cases have the right to apply for the translation and printing of such paper within two weeks of the date of receipt of such notice. Such application shall be deemed to have been made within the prescribed time.

191. *Instructions for the guidance of the Editor.*—The Editor shall be guided by the following instructions, namely—

(a) All evidence and documents not relevant to the subject-matter of the appeal and documents not proved or not forming part of the record should be excluded and every effort should be made to reduce the bulk of the paper book.

(b) Duplication of documents and unnecessary repetition of

headings and other formal parts of documents should be avoided.

- (c) Long series of documents, such as accounts, rent rolls, inventories, etc. should not be printed in full, unless absolutely necessary. Parties should be asked to agree, if possible, to the translation and printing of short extracts or specimens only.
- (d) If more appeals than one have been preferred from the same decree, the same evidence or document shall not be included in more than one paper book.
- (e) Where more than one party have applied for the translation and printing of the same paper or where there are more appeals than one from the same decree in which applications for the translation and printing of the same paper have been made, such paper shall be translated and printed in pursuance of the earliest application only.
- (f) Where there has been a previous appeal to this Court arising out of the same suit, every paper translated and printed in the previous appeal shall be excluded from translation and printing in the subsequent appeal, provided that a sufficient number of copies of the paper book of the previous appeal is available for the use of the Judges and the parties.

The fact that there has been such previous appeal shall be stated by the appellant in the memorandum of appeal and the Editor shall ascertain from the office if a sufficient number of copies of the paper book of that appeal is available before he decides whether such papers shall be translated and printed or not. If such papers have to be printed afresh, the translations previously made should with such corrections as may be found necessary on comparison, be adopted.

- (g) Except as provided above and in so far as the Editor may for sufficient cause shown direct, a part only of a document shall not be translated and printed.
- (h) Such of the paper books referred to in clause (f) as are available in the office shall not be returned until the appeal has been disposed of.

192. *Editor's decision revisable by Registrar*—Every decision of the Editor shall be subject to revision by the Registrar on an application by the aggrieved party and, subject to the provisions of rule 194 below, the decision of the Registrar shall be final.

193. *List of excluded papers to form part of the paper book.*—A type-written or printed list of the papers excluded by the Editor or the Registrar from the list of papers to be translated and printed shall form part of the paper book.

194. *Typed copies of excluded papers may be filed.*—(1) It shall be open to the party aggrieved by an order of the Registrar

excluding any paper to provide for the use of the Judges at the time of hearing, typed or printed copies, certified to be correct by the Advocate of the party supplying them, of such excluded papers on which he relies, after previously serving such copies on the opposite party. Copies shall be served on the opposite party and filed in Court within a week of the first appearance of the case in the list of ready cases. In such case it shall be in the discretion of the Judges hearing the appeal to take such evidence into consideration or not.

(2) Subject to the provisions of sub-rule (1), no paper which does not form Part of the paper book shall be referred to at the hearing by any party, without the special permission of the bench hearing the appeal, provided in all cases that the party has supplied for the use of the Judges at the time of hearing typed or printed copies certified to be correct by the advocate of the party supplying them and has also previously served such copies on the opposite party in the manner stated in sub-rule (1).

*Notes.*

This sub-rule (2) has been newly added vide amending Notification No. 54/S. R.O./2/Gazette dated 4-1-55, published in Rajasthan Raj-patra dated 22-1-55 part IV (c). Rule 194, as it existed previously has, therefore, been renumbered as rule 194 (1).

195 *Registrar's order for translation and printing.*—No paper shall be translated and printed on an application for translation and printing without an order from the Registrar to that effect. With respect to papers included in an application under rule 183 such order shall be made immediately after the list of papers to be translated and printed has been settled by the Editor and, where any objection is made to the list so settled, immediately after the objection has been decided by the Registrar; and with respect to papers included in an application under any other Rule, on the making of such application.

196. *Preparation of estimate.*—As soon as an order has been made under the next preceding Rule, the Deputy Registrar shall forth-with cause to be prepared an estimate of the cost of counting, transcribing, transliterating, translating, copying typing or printing, proof correcting, indexing and all such miscellaneous costs as may have to be incurred in getting the papers translated and printed. The estimate shall also include the Editor's fee, where chargeable and the cost of despatching a copy of the estimate to the address given in the application for translation and printing. In the estimate, credit shall be given for any initial deposit already made.

A separate estimate shall be prepared in respect of each separate application for translation and printing.

197. *When Editor's fee not to be charged.*—Editor's fee shall not to be charged—

(a) Where an application for translation and printing is not one under rule 183; or

- (b) Where an application although made under rule 183, is only for the translation and printing of the *necessary papers* or the cross-objection; or
- (c) from any party who may have been exempted from the payment of such fee by the Chief Justice.

198. *Estimate to be prepared according to rates in Schedule.*—

The estimate shall be prepared according to the rates given in the Schedule to this Chapter. The rates given therein shall be liable to alteration from time to time under the orders of the Chief Justice.

199. *Details of estimate and actual cost to be entered on application.*—The details of the estimate shall be entered in the appropriate place on the application for translation and printing; and on the same application shall be entered later an account of the cost actually incurred under different heads

200. *Form of estimate.*—The estimate shall—

- (a) be prepared on the prescribed form;
- (b) have printed on it in Hindi, a copy of rules 201, 202, 204 and 205 of this Chapter;
- (c) bear the date when it is delivered to the post office under rule 203 for despatch; and
- (d) exhibit separately the amounts of the two instalments in which the entire estimated amount shall be payable.

201. *Time for depositing first and second instalments.*—The first instalment shall consist of the estimated cost of editing, counting, transliterating indexing, and copying, map-work and other miscellaneous charges, if any, and shall be payable within thirty days of the date of the estimate or within such further time as the Registrar may, on an application having been presented within thirty days from the date of despatching the estimate, for sufficient cause shown, allow. The second instalment shall consist of the rest of the estimated cost, and shall be payable within seventy days of the date of despatching the estimate. Credit for the initial deposit shall be given in the second instalment.

202. *Payment of estimated amount in single instalment.*—

When the paper book is not to be printed, the entire estimated amount shall be payable in a single instalment within the time allowed under rule 201.

203. *Communication of estimate.*—Immediately on the preparation of the estimate, the Deputy Registrar shall despatch under his signature a copy of the estimate by post under registered cover to the person mentioned in this behalf in the application for translation and printing and also deliver a copy thereof to the Advocate concerned. No other notice of such estimate shall be given

204. *Consequence of failure to pay instalment within the prescribed period.*—(1) If any instalment of the estimated amount is not paid within the prescribed time, the matter shall be listed along with an office report before the Registrar who may from time to time for sufficient cause shown extend the time for such payment

If such instalment is not paid within the prescribed time or within such further time as the Registrar may allow the order for translation and printing of the papers with respect to which the estimate was prepared shall abate and except as hereinafter provided the papers included in the application shall not be translated or printed in pursuance of such order.

(2) No initial deposit made on behalf of an applicant shall, where the order for translation and printing of the papers has abated, be refunded.

205. *Dismissal of appeal on abatement of order for translation and printing.*—Immediately on the abatement of an order for translation and printing on an application under sub-rule (1) or (2) of Rule 183, the appeal or the cross-objection, as the case may be, shall be listed for dismissal before the Court and shall be dismissed:

Provided that if the Court is on an application having been made supported by an affidavit satisfied that there was reasonable cause for default, it may order that the appeal or the cross-objection, as the case may be, shall stand dismissed unless the payment is made within such further time as it may deem fit to allow:

Provided further that if payment is made in accordance with such conditional order of the Court, the abatement of the order for translation and printing shall be deemed to have been set aside.

206. *Insufficiency of amount deposited and its consequences.*—Where it appears at any time that the amount deposited by any party for translation and printing is not or will not be sufficient to cover the actual cost incurred or to be incurred in such translation or printing, the Deputy Registrar shall call upon the party concerned to make good the deficiency and if such deficiency is not made good within thirty days from the date of demand or within such further time as the Registrar may for sufficient cause shown allow, the following consequences shall follow, namely:—

- (a) No further translation and printing shall be done in pursuance to such application.
- (b) Where the deficiency is due from the appellant and is in respect of an application under sub-rule (1) of rule 183 or an application made under any other rule but represents an amount already spent or for the payment of which liability has already been incurred by the office, the appeal shall be listed for dismissal and shall be dismissed unless the Court for sufficient cause shown directs that it shall stand dismissed on the requisit payment not being made within such further time as it may deem fit to allow.
- (c) Where the deficiency is due from the respondent and is in respect of an application under sub-rule (2) of rule 183 or an application made under any other rule but represents an amount already spent or for the payment of which liability has already been incurred by the office—

- (i) the cross-objection, if any, shall be listed for dismissal before the Court and shall be dismissed unless the Court for sufficient cause shown directs that it shall stand dismissed on the requisite payment not being made within such further time as it may deem fit to allow; and
- (ii) the appeal shall thereafter be heard *ex parte* against him.
- (d) Where any deficiency remains due from a party, it shall not be entitled to recover as costs any expenses incurred by it on account of translation and printing done in pursuance to the application to which the deficiency relates, whatever may be the result of the appeal.

207. *Decree not to be prepared unless deficiency made good.*—If a sum remains due with respect to an application for translation and printing from any party after the appeal has been disposed of and the sum includes an amount already spent or for the payment of which liability has already been incurred by the office, no decree shall be prepared until such sum has been paid by the successful party to the appeal. The sum so paid shall be taxed as cost for the party making the payment.

208. *Notice for refund on abatement of application.*—If the amount of any instalment fixed in an estimate is paid after the expiry of the prescribed time or where time had been extended, after the expiry of such extended time, notice thereof shall be given to the party making the payment or his Advocate, and he may thereafter if so entitled under the rules make an application to the Deputy Registrar for its refund.

209. *Application for refund of excess deposit.*—If the amount deposited by any party be found to exceed the actual cost incurred in pursuance of an order for translations and printing, such party may, as soon as the amount of such cost has been ascertained, present an application for the repayment of such excess, to the Deputy Registrar.

210. *Application by another party after abatement of order for translation and printing.*—Where an order for translation and printing made on an application under Rule 183 has abated, any party other than the party on whose application such order has been made, may on an application made within thirty days of the date of such abatement obtain from the Deputy Registrar an estimate of the cost of translating and printing any papers covered by the said order and thereafter present an application for the translation and printing of such papers. The Registrar may thereupon order that if the applicant pays the estimated cost of such translation and printing within ten days of the making of the order, such papers be translated and printed and that, subject to any further orders, the appeal be not heard until such papers have been translated and

printed. For the purpose of taxation of costs such application shall be deemed to be an application made within the prescribed time.

211. *Additional evidence and finding under Order XLI, rule 25 of the Code.*—Where on a reference made under rule 25 of Order XLI of the Code additional evidence has been taken by the court from whose decree the appeal is preferred, any party to the appeal may obtain from the Deputy Registrar on an application accompanied by the requisite initial deposit an estimate cost of translating and printing such evidence together with the findings of such a Court. He may thereafter pay such estimated amount to the cashier and apply to the Registrar for an order for the translation and printing of such evidence and findings. Such application shall be made within thirty days of the notice or receipt of the findings and the evidence or such further time as the Registrar may, for sufficient cause shown, allow. The Registrar may grant the application directing at the same time that the hearing of the appeal be deferred until such evidence and findings have been translated and printed.

212. *Additional evidence under Order XLI rule 28 of the Code.*—Where additional evidence is taken under rule 28 of Order XLI of the Code, the Bench hearing the appeal may make such order as may seem to it to be just for the translation and printing of such evidence and the payment of the costs thereof.

213. *Court may order translation and printing.*—Notwithstanding anything contained in these Rules, the Bench hearing the appeal may, on the application of any party to the appeal and subject to such terms as may seem to it to be just, make an order for the translation and printing, at the cost of the party making the application if it is satisfied that the application is a reasonable one and that the party making it has made it without undue delay and not for the purpose of delaying the hearing of the appeal. Such cost shall not be cost in the cause.

214. *Cost of translation and printing to be cost in the cause.*—Except as otherwise provided in these Rules or otherwise ordered by the Court, the cost of translation and printing under an order made under these Rules, shall be cost in the cause.

215. *Objection to translation and printing of unnecessary evidence.*—Any party to an appeal may, before the appeal is called on for hearing, or where a reference has been made under rule 25 of Order XLI of the Code, before the hearing of the appeal after the receipt of findings from the court below, file an objection before the Registrar that the translation and printing of any evidence has been unnecessarily procured by any other party to the appeal. Such objection shall be laid before the court by the Registrar along with his report and the Court may consider it while considering the question of costs in the appeal.

216. *Unprinted evidence not to be referred to.*—In an appeal where the amount or value of the subject-matter of the suit in the court of first instance was twenty thousand rupees or more, and the

- (i) the cross-objection, if any, shall be listed for dismissal before the Court and shall be dismissed unless the Court for sufficient cause shown directs that it shall stand dismissed on the requisite payment not being made within such further time as it may deem fit to allow; and
- (ii) the appeal shall thereafter be heard *ex parte* against him.
- (d) Where any deficiency remains due from a party, it shall not be entitled to recover as costs any expenses incurred by it on account of translation and printing done in pursuance to the application to which the deficiency relates, whatever may be the result of the appeal.

207. *Decree not to be prepared unless deficiency made good.*—If a sum remains due with respect to an application for translation and printing from any party after the appeal has been disposed of and the sum includes an amount already spent or for the payment of which liability has already been incurred by the office, no decree shall be prepared until such sum has been paid by the successful party to the appeal. The sum so paid shall be taxed as cost for the party making the payment.

208. *Notice for refund on abatement of application.*—If the amount of any instalment fixed in an estimate is paid after the expiry of the prescribed time or where time had been extended, after the expiry of such extended time, notice thereof shall be given to the party making the payment or his Advocate, and he may thereafter if so entitled under the rules make an application to the Deputy Registrar for its refund.

209. *Application for refund of excess deposit.*—If the amount deposited by any party be found to exceed the actual cost incurred in pursuance of an order for translations and printing, such party may, as soon as the amount of such cost has been ascertained, present an application for the repayment of such excess, to the Deputy Registrar.

210. *Application by another party after abatement of order for translation and printing.*—Where an order for translation and printing made on an application under Rule 183 has abated, any party other than the party on whose application such order has been made, may on an application made within thirty days of the date of such abatement obtain from the Deputy Registrar an estimate of the cost of translating and printing any papers covered by the said order and thereafter present an application for the translation and printing of such papers. The Registrar may thereupon order that if the applicant pays the estimated cost of such translation and printing within ten days of the making of the order, such papers be translated and printed and that, subject to any further orders, the appeal be not heard until such papers have been translated and



printed. For the purpose of taxation of costs such application shall be deemed to be an application made within the prescribed time.

211. *Additional evidence and finding under Order XLI, rule 25 of the Code.*—Where on a reference made under rule 25 of Order XLI of the Code additional evidence has been taken by the court from whose decree the appeal is preferred, any party to the appeal may obtain from the Deputy Registrar on an application accompanied by the requisite initial deposit an estimate cost of translating and printing such evidence together with the findings of such a Court. He may thereafter pay such estimated amount to the cashier and apply to the Registrar for an order for the translation and printing of such evidence and findings. Such application shall be made within thirty days of the notice or receipt of the findings and the evidence or such further time as the Registrar may, for sufficient cause shown, allow. The Registrar may grant the application directing at the same time that the hearing of the appeal be deferred until such evidence and findings have been translated and printed.

212. *Additional evidence under Order XLI rule 28 of the Code.*—Where additional evidence is taken under rule 28 of Order XLI of the Code, the Bench hearing the appeal may make such order as may seem to it to be just for the translation and printing of such evidence and the payment of the costs thereof.

213. *Court may order translation and printing.*—Notwithstanding anything contained in these Rules, the Bench hearing the appeal may, on the application of any party to the appeal and subject to such terms as may seem to it to be just, make an order for the translation and printing, at the cost of the party making the application if it is satisfied that the application is a reasonable one and that the party making it has made it without undue delay and not for the purpose of delaying the hearing of the appeal. Such cost shall not be cost in the cause.

214. *Cost of translation and printing to be cost in the cause.*—Except as otherwise provided in these Rules or otherwise ordered by the Court, the cost of translation and printing under an order made under these Rules, shall be cost in the cause.

215. *Objection to translation and printing of unnecessary evidence.*—Any party to an appeal may, before the appeal is called on for hearing, or where a reference has been made under rule 25 of Order XLI of the Code, before the hearing of the appeal after the receipt of findings from the court below, file an objection before the Registrar that the translation and printing of any evidence has been unnecessarily procured by any other party to the appeal. Such objection shall be laid before the court by the Registrar along with his report and the Court may consider it while considering the question of costs in the appeal.

216. *Unprinted evidence not to be referred to.*—In an appeal where the amount or value of the subject-matter of the suit in the court of first instance was twenty thousand rupees or more, and the

amount or value of the subject-matter of appeal together with the amount for value of the subject-matter of the cross-objection, if any, is also twenty thousand rupees or more, no evidence which has not been translated and printed under an order made under these Rules shall be read or referred to at the hearing, except by the special leave of the court to be recorded on the order sheet.

217. *Number of copies of the paper book to be prepared.*—Where a type written paper book is required under this Chapter, the number of copies to be prepared shall be four. Two copies shall be ordinarily retained for the use of the Judges and one copy shall be given to the appellant or applicant.

In case of paper books or portions of paper books prepared at the expense of the appellant or applicant, the fourth copy shall be sold to the respondent, should he require it, for one quarter of the price of preparation of the book, to be paid in advance. Should he purchase this copy the price paid by him shall be refunded to the appellant or applicant. Should he not purchase it, the fourth copy will be retained by the appellant or applicant. In case there is more than one respondent this copy will issue to the principal respondent. At the request of other respondents and if the Registrar can conveniently arrange to have them prepared, extra copies may be prepared on payment for each such copy such extra sum not exceeding 25 percent of the total cost of preparation of the Paper Book as the Registrar may fix provided such application is made within 30 days from the date they are served with the notice of the appeal.

In the case of that portion of the paper book which has been prepared at the expense of the respondent, the appellant may similarly get the fourth copy on payment of one quarter of the price of the preparation of that portion, to be paid in advance. The price so paid shall be returned to the respondent.

In the case of an appeal the valuation of which is twenty thousand rupees or more, where a printed Paper Book is required, the number of copies to be printed shall be thirty five.

#### Notes

Originally rule 217 stood in the following form. The word "six" occurring therein after the words "shall be" was then substituted by the word "four" through amending Notification No. 29/S.R.O. dated 16-12-53 published in Rajasthan Rajpatra dated 23-1-54 part II:—

217. *Number of copies of the paper book to be prepared.*—Where a type-written paper book is required under this Chapter, the number of copies to be prepared shall be six. At the request of a party to the appeal extra copies may be prepared on payment for each such copy of such extra sum not exceeding 20 per cent of the total cost of preparation of the Paper Book as the Registrar may fix.

In the case of an appeal the valuation of which is twenty thousand rupees or more, where a printed paper book is required, the number of copies to be printed shall be sixty.

The rule as existing in the original form was then repealed and it now stands as substituted through amending Notification No. 34/S. R. O. dated 26-8-54, published in Rajasthan Rajpatra dated 13-11-54 part IV (c). The last word "sixty" has been replaced by the word "thirty-five" vide amending Notification No. 4/S.R.O. dated 16-1-58, published in Rajasthan Rajpatra dated 27-3-58 part IV(c).

218. *Printing of Paper Book.*—(1) The paper book shall be arranged and printed, as nearly as may be, as provided in rule 402 of Chapter XXIII.

(2) A list of selected presses which have under-taken to print paper books in the form and size required under the Supreme Court Rules shall be kept by the Registrar and records of appeals valued at twenty thousand rupees or more shall, except with the express permission of the Registrar, not be sent for printing to any press not included in the list. The list shall be subject to revision from time to time under the orders of the Chief Justice.

219. *Translation and printing out of turn.*—The translation and printing of evidence under these Rules shall not be done out of turn nor shall any application for translation and printing be taken up out of turn unless specially directed by the Chief Justice. In such case a further sum amounting to 50 per cent over and above the total estimated cost for such translation and printing shall be paid by the party making the application and the sum so paid shall not be cost in the cause.

220. *Inspection or copy of application or order.*—Any party to the appeal or his Advocate or the registered clerk of such Advocate, may inspect, or obtain a copy of, any application under this Chapter or any order made thereon.

221. *Registrar's orders rejecting applications revisable by Court.*—Any order made by the Registrar rejecting an application under this Chapter shall be subject to revision by the Court

222. *Translation of a paper when it cannot be arranged for by the Registrar.*—If any paper to be included in a paper book is in a language the translation of which cannot be arranged for by the Registrar, he may ask the party applying for the inclusion of such paper in the paper book, to provide an expert who may be able to translate it and a translation made by such person may be accepted and included in the paper book provided that it is verified by him in the following manner, namely—

“I, (A B.), do declare that I read and understand the language and character of the original, and that the above is a true and accurate translation thereof.”

223. *Paper Book where the appeal may be disposed of on a question of law alone.*—Where in the case of any First Appeal the Chief Justice is satisfied that it may be disposed of on a question of law alone, he may order that a type-written paper book consisting only of the memorandum of appeal, the pleadings in the case, the judgment under appeal and such other papers as he may direct be prepared.

224. *Preparation of paper book out of court.*—On application by a party, the Chief Justice, after giving an opportunity to the other party if represented by a counsel to be heard, may in any case direct that such party may get the paper book prepared out of Court in accordance with these Rules and supply such number of copies

thereof as may be specified in the order for the use of the other party and the Court. The correctness of the translation and printing of such paper book shall be certified by the Advocate of the party preparing the paper book.

The Registrar shall determine the cost of preparation of such paper book before the appeal comes up for hearing and the court shall decide whether the whole or a portion of such cost shall be cost in the cause,

#### Notes

The word "if represented by a counsel" appearing now in the present rule between the words "other party" and "to be heard" have been newly inserted vide amending Notification No. 26/ S.R.O. dated 10-11-53., published in Rajasthan Rajapatra dated 5-12-53. part II.

**225. Order directing hearing of an appeal without preparation of paper book.**—On application by a party, the Chief Justice, after giving an opportunity to the other party if represented by a counsel to be heard, may on the applicant furnishing such cash security as may be considered proper so as to ensure the speedy preparation of a paper book in accordance with these Rules in case of a further appeal from this Court, direct that the appeal be listed for hearing without the preparation of a paper book.

#### Notes.

The word "if represented by a counsel" appearing in the present rule between the words "other party" and "to be heard" have been newly inserted vide amending Notification No. 26/ S.R.O. dated 10-11-53, published in Rajasthan Rajapatra dated 5-12-53, part II.

**226. Direction as to the transliteration or translation of papers for inclusion in a paper book.**—The Chief Justice shall from time to time issue directions as to the manner in which and the condition according to which papers to be translated and printed shall be transliterated or translated for inclusion in the paper book.

#### SCHEDULE TO CHAPTER XIII.

(a) Counting Fee	/1/- per 1000 English words, & -1/- per 120 vernacular words
(b) Translation fee	Re. 1/- per 150 words
(c) Printing fee	According to Current rates in Government Press.
(d) Copying fee	For four copies -/8/ per hundred words.
(e) Checking fee	-/1/- per page.
Proof correction charges	-/8/- per page.
Index charges	-/1/- each paper.
<b>Miscellaneous Charges</b>	
Paper	-/-/3 per sheet
Registration charges and postage.	Actual charges.
Editing fee	
in case the value of which is above Rs. 10,000/-	Rs. 30/-
In other cases	Rs. 16/-

Transliteration fee -/4/- per 100 words.

## CHAPTER XIV:

### PAPER BOOK IN CASES OTHER THAN FIRST APPEALS

227. *Paper book to be prepared in every case.*—In every case listed for hearing before a bench consisting of more than one Judge, a paper book shall be prepared for the use of the Judges hearing it except in cases coming up for hearing under rule 11 of Order XLI of the Code or for summary hearing under rule 111 of Chapter VIII or in the case of an application which is not required under these Rules to be registered and numbered as a separate case or in any other case if so ordered.

Where an application which has not been registered and numbered as a separate case is listed for hearing before a Bench consisting of more than one Judge, copies of applications and affidavits supplied by the parties shall be stitched together for the use of the Judges constituting the Bench.

228. *Contents of paper book.*—A paper book shall consist of (i) a fly-sheet, (ii) an index and (iii) such copies as are indicated in the succeeding Rules.

Ordinarily certified copies of judgments or orders filed by the appellant along with the memorandum of appeal shall be used for inclusion in the paper book. If any such copy is faint or not properly typed or not legibly written, it shall not be so included and a fresh neatly typed copy shall be prepared for inclusion in the paper book.

229. *Paper book to be typewritten.*—Unless otherwise ordered, every copy included in a paper book shall be type-written and the paper book shall be paged. The index shall indicate the pages of all the papers included in the paper book together with their identification numbers as entered in the general index prepared in the court below. Papers flagged and not included in the paper book shall also be entered in the general index along with their identification numbers.

230. *Paper book in Execution First Appeal.*—Copies to be included in the paper book of an Execution First Appeal shall be of the following papers, namely:—

- (a) Memorandum of appeal;
- (b) Memorandum of objection, if any, to the decree appealed from;
- (c) judgment under appeal;
- (d) application or objection disposed of by the judgment under appeal;
- (e) reply to such application or objection; and
- (f) reply to such reply, if any.

231. *Paper book in Execution Second Appeal.*—Copies to be included in the paper book of an Execution Second Appeal shall be of the following papers, namely:—

- (a) Memorandum of appeal;

- (b) Memorandum of objection, if any, to the decree appealed from;
- (c) judgment under appeal;
- (d) judgment of the court of first instance;
- (e) any order under rule 23; 25 or 28 of Order XLI of the Code, return to such order and in the case of an order under rule 111 any memorandum of objection to such return, if any;
- (f) application or objection disposed of by the judgment of the court of first instance;
- (g) reply to such application or objection; and
- (h) reply to such reply, if any.

232. *Paper book in Second Appeal.*—(i) Copies to be included in the paper book of an appeal from an appellate decree in a case other than an execution case shall be of the following papers, namely:—

- (a) memorandum of appeal,
- (b) memorandum of objection if any, to the decree appealed from,
- (c) plaint,
- (d) written statement,
- (e) further pleadings, if any,
- (f) statement recorded under rule 1 or 2 of order X of the Code, if any,
- (g) judgment of the court of first instance,
- (h) judgment of the appellate court, and
- (i) any order under rule 25 or 28 of Order XLI of the Code, return to such order, and in the case of an order, under rule 111 memorandum of objections to such return, if any.

(2) Written statement of defendants who are not parties to the appeal and long schedules annexed to the plaint where the grounds of appeal raise no questions relating to such schedules, shall not be included in the paper book.

233. *Paper book in First Appeal from order of remand.*—Copies to be included in the paper book of a First Appeal from an order of remand shall be of the following papers, namely—

- (a) memorandum of appeal;
- (b) memorandum of objection to the order appealed from, if any;
- (c) plaint;
- (d) written statement;
- (e) further pleadings, if any;
- (f) judgment of the court of first instance; and
- (g) judgment upon which the order under appeal is founded.

234. *Paper Book in First Appeal from order.*—Copies to be included in the paper book of a First Appeal from an order, other than an order of remand, shall be of the following papers, namely:—

- (a) memorandum of appeal;

- (b) memorandum of objection to the order appealed from, if any;
- (c) application on which the order under appeal was passed;
- (d) objection to such application, if any; and
- (e) judgment upon which the order under appeal is founded.

235. *Paper Book in an appeal from an appellate order.*—Copies to be included in the paper book of an appeal from an appellate order where such appeal is allowed by any law shall contain copies of the following papers, namely:—

- (a) memorandum of appeal;
- (b) memorandum of objection to the order appealed from, if any;
- (c) application on which the order under appeal was passed;
- (d) objection to such application, if any;
- (e) judgment or order of the court of first instance;
- (f) judgment upon which the order under appeal is founded.

236. *Paper book in an application for revision.*—Copies to be included in the paper book of an application for revision shall be of the following papers, namely:—

- (a) application for revision;
- (b) judgment or order to which the application relates; and
- (c) if such judgment or order is one passed in appeal, the judgment or order of the court of first instance.

237. *Paper book in an application for review.*—Copies to be included in the paper book of an application for review shall be of the following papers, namely:—

- (a) application for review;
- (b) affidavit filed in support of the application, if any;
- (c) affidavits in reply, if any; and
- (d) judgment or order to which the application relates.

238. *Paper book in certain Special Appeals.*—Copies to be included in the paper book of a Special Appeal other than one from a decree or order in an original trial or proceeding, shall be of the following papers, namely:—

- (a) memorandum of appeal;
- (b) judgment appealed from; and
- (c) the paper book, if any, prepared for the use of the Judge from whose judgment the appeal is preferred.

239. *Paper book in other Special Appeals.*—(1) Copies to be included in the paper book of a Special Appeal from a decree or order in an original trial or proceeding shall be of the following papers namely:—

- (a) memorandum of appeal;
- (b) judgment appealed from;
- (c) pleadings and further pleadings, if any; and
- (d) where the proceedings had originated on an application or petition, such application or petition and the objection thereto, if any.

(2) Such copies of evidence, oral or documentary, as may be supplied by the parties after having been certified as correct by their Advocates shall also be included in the paper book.

240. *Paper book in cases not otherwise provided for.*—(1) The paper book in cases not otherwise provided for in these Rules shall be prepared under the direction of the Registrar subject to such orders as may be passed from time to time by the Chief Justice.

(2) No paper book will ordinarily be prepared in cases heard by a Single Judge.

241. *When party to provided transliteration or translation of a document.*—Any party may apply for the inclusion in the paper book of any papers, he may wish to refer to (where reference to such papers is permissible) in addition to the papers mentioned in Rules 230 to 239.

#### Notes

Originally rule 241 stood as under it now stands substituted by the present rule vide Notification No. 1/S.R.O. dated 13/1/56, published in Rajasthan Rajpatra dated 4/2/56 part IV (c):—

241. *When party to provide transliteration or translation of a document.*—Where the question of construction of a document is desired to be raised by a party in an appeal from an appellate decree or order, the Advocate of the party concerned shall provide a sufficient number of copies of such document or, if so required, of a transliteration or translation thereof to enable a copy to be placed on each copy of the paper book. Such copies shall be supplied not less than one week before the hearing of the case.

242. *Deleted.*

#### Notes.

The original rule was as under which has been deleted by amending Notification No. 1/S.R.O. dated 13-1-56, published in Rajasthan Rajpatra dated 4-2-56 part IV (c):—

242. *Copies of oral or documentary evidence to be supplied by party*—

(1) Any party desiring to refer to any paper or evidence, oral or documentary, where reference to such paper or evidence is permissible, shall supply a sufficient number of copies thereof or its translation to enable a copy to be placed on each copy of the paper book. Such copies shall be supplied not less than one week before the hearing of the case.

(2) No party shall be entitled to refer to any document or evidence copies of which have not been supplied in accordance with sub-rule (1).

243. *When a party may supply paper book.*—The Chief Justice may permit a party to supply for the use of the Court and the other party copies of paper book prepared in accordance with these Rules. In such case no paper book shall be prepared by the office.

244. *Cost of preparing paper book not to be charged from parties.*—Except under rule 243, where copies of any paper or its transliteration or translation are supplied under this Chapter by any party to a proceeding, the cost thereof shall be borne by such party whatever may be the result of the case.

245. *Charges of paper book.*—(a) The scale of charges for the preparation of paper book as laid down in Chapter XIII shall be applicable to paper books prepared under this Chapter. No editor's fee will, however, be chargeable.



(b) The initial deposit required with the application shall be Rs. 16/-.

(c) An estimate of preparing the paper-book shall be made as soon as the application for the preparation of the paper-book is received.

246. *Distribution of copies of paper book and charging of price therefor.*—For the preparation of the paper book, four copies of all papers in the book shall ordinarily be made. Two copies shall be ordinarily retained for the use of the Judges and one copy shall be given to the appellant or applicant.

In the case of paper books or portions of paper books prepared at the expense of the appellant or applicant, the fourth copy shall be sold to be respondent, should he require it, for one-quarter of the price of preparation of the book, to be paid in advance. Should he purchase this copy the price paid by him shall be refunded to the appellant or applicant. Should he not purchase it, the fourth copy will be retained by the appellant or applicant. In case there is more than one respondent, this copy will issue to the principal respondent. Other respondents will be charged under the Copying Rules should they require copies.

In the case of that portion of the paper book which has been prepared at the expense of the respondent, the appellant may similarly get the fourth copy on payment of one-quarter of the price of the preparation of that portion, to be paid in advance. The price so paid shall be returned to the respondent.

247. *Application or provisions of Chapter XIII.*—The rules contains in Chapter XIII shall apply *mutatis mutandis* to the preparation and use of paper books under this chapter in regard to matters for which no provision is contained in this chapter (e.g. issue of notices, making of application, payment of charges and dismissal of cases in default of application or of payment, scrutiny by Editor, revision of Editor's decision by Registrar and filing of typed copies of excluded papers).

#### Notes

Rule 247 originally stood as under. It now stands replaced by amending Notification No. 1/S.R.O. dated 13-1-56, published in Rajasthan Rajpatra dated 4-2-56 part IV (c):—

247. *Application of provisions of Chapter XIII.*—The Rule contained in Chapter XIII shall apply *mutatis mutandis* to the preparation of paper books under this Chapter in regard to matters for which no provision is contained in this Chapter, (e. g. issue of notices, making of applications, payment of charges and dismissal of cases in default of application or of payment)

#### CHAPTER XIV-A.

#### SPECIAL PROVISIONS RELATING TO PROCEDURE IN APPEALS FROM ORDERS OF ELECTION TRIBUNALS.

#### Notes.

Section 116 A of the Representation of People Act, 1951 provides that:—

(1) An appeal shall lie from every order made by a Tribunal under section 98 or section 99 to the High Court of the State in which the Tribunal is situated.

(2) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction, and authority, and follow the same procedure, with

respect to an appeal under this Chapter as if the appeal were an appeal from an original decree passed by a civil court situated within the local limits of its civil appellate jurisdiction:

Provided that where the High Court consists of more than two judges every appeal under this Chapter shall be heard by a bench of not less than two judges.

(3) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the Tribunal under section 98 or section 99:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(4) Where an appeal has been preferred against an order made under clause (b) of section 98, the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed never to have taken effect under sub-section (1) of section 107.

(5) Every appeal shall be decided as expeditiously as possible and endeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court.

The rules in this Chapter are meant to govern the procedure in appeals under this section.

Rules 247A to Rules 247J have been newly added vide amending Notification No. 13/ S.R.O. dated 13-8-57, published in Rajasthan Rajpatra dated 19-9-57 part IV (c). In view of the addition of this new Chapter, Serial No. 13 in part I of Appendix-'A' and Form No. 13 of the same part have been newly added.

247 A. The provisions of this Chapter shall govern appeals under section 116-A of the Representation of the people Act, 1951.

247 B. The appellant shall, with the memorandum of appeal, file an affidavit setting out the present address of the respondent where he can be served. The memo shall also be accompanied by postal envelope bearing requisite postage stamps to enable service to be effected on the respondent by registered post acknowledgement due.

247-C. Where the postal acknowledgement has been received duly signed or where the envelope has been returned with the endorsement 'Refused' the respondent shall be deemed to have been served.

247-D. Where notice of appeal is not served in the manner indicated in the preceding rule, it may be served in accordance with the provisions of Rule 172 (Chapter XII of Rules of the Court).

247-E. Every memorandum of appeal shall be accompanied by as many typed copies of the paper book as there may be parties to be served together with two extra copies for the use of the court.

247-F. The paper book shall consist of a fly-leaf and index and copies and transliterations or translations of the following papers, namely:—

- (a) election petition;
- (b) written statement;
- (c) further pleadings, if any;
- (d) statements of parties or their pleaders recorded under rule 1 and 2 of Order X of the Code;
- (e) judgment under appeal;
- (f) memorandum of appeal; and

(g) such evidence, oral or documentary, or other papers as the appellant may wish to refer to.

247-G. On the date fixed for appearance of the respondent, the respondent shall be supplied with a copy of the paper book filed by the appellant and shall be required to intimate in writing on the next working day if he wants to file a supplementary paper book containing such other evidence, oral or documentary or other papers as he may wish to refer to. In cases he gives this intimation, he shall file three typed copies of the supplementary paper book within 14 days of the intimation referred to above.

247-H. The correctness of the translation and typing of paper book shall be certified by the Advocate of the party preparing the copy.

247-I. The Registrar shall determine the cost of preparation of a paper book before the appeal comes up for hearing and the Court shall decide whether the whole or a portion of the costs shall be taxed.

247-J. Notice to appear issued to respondent shall be in Form No. 13 of Part I of Appendix A.

## CHAPTER XV.

### ORIGINAL AND EXTRAORDINARY ORIGINAL CIVIL JURISDICTION.

248. *Institution of suit.*—(1) Every suit shall be instituted by the presentation of the plaint to the official appointed under Chapter XI, rule 154 of these Rules to receive applications.

(2) The provisions of Rules 154, 155, 157 and 158 of Chapter XI shall with necessary modifications and adaptation also apply to the presentation of plaints.

249. *Application of section 4 of the Court Fees Act, 1870, as adapted to Rajasthan.*—The provisions of section 4 of the Court Fees Act, 1870, as adapted to Rajasthan with respect to the payment of court fees in cases coming before the Court in the exercise of its extraordinary original civil jurisdiction shall also apply to cases coming before it in the exercise of its ordinary original civil jurisdiction.

250. *Constitution of Bench.*—When a suit has been duly instituted, it shall be registered and numbered and laid before the Chief Justice for the constitution of a Bench to hear the case.

251. *Supply of process fees etc.*—As soon as the Bench has been constituted, the case shall be put up before it and it may direct that notice be issued to the defendant to appear and answer the claim.

Process fees for the issue of notices, summonses or other processes, cost of advertisement, if any, and copies of plaints, petitions, affidavits etc. for service on the defendant, if not supplied at the time of the presentation of the plaint, shall be supplied by the plaintiff within ten days of the date of the order directing the issue of notice to the defendant. If this is not done, the plaint shall be listed before the Court for being rejected and shall be rejected unless the Court for sufficient cause shown allows further time for supplying such process fees, cost of advertisement or copies, as the case may be.

252. *Notice.*—On the plaintiff complying with the requirements of the next preceding Rule, notice shall be issued to the defendant to appear and answer the claim on a date to be specified therein. Such notice shall also direct that if he wishes to put up a defence he shall file his written statement together with a list of all documents in his possession or power or upon which he intends to rely in support of his case at least ten days before the date fixed and that in case of delay he may be liable to pay the costs of any adjournment that may be necessitated thereby.

253. *Appearance by defendant.*—The defendant shall enter appearance by filing with the Registrar a memorandum signed by him or his Advocate giving an address at which service of notice, summons or other process may be made upon him. Such address shall be within the territorial limits of the jurisdiction of the Court.

In default of appearance being entered before the date mentioned in the notice, the suit may be heard and determined in his absence.

254. *Form of pleadings and applications.*—All pleadings and applications shall be in the language of the Court and shall be drawn up in the manner provided in Rules 126, 129 and 130 of Chapter IX with such modifications and adaptations as circumstances may require. Rule 135 of the same Chapter shall with necessary modifications and adaptations also apply to such pleadings and applications.

Material corrections or alterations shall be authenticated by the initials of the person verifying the plaint or written statement, or signing the application, as the case may be.

255. *Rejection of defective plaint etc.*—If a plaint, written statement, or application is not drawn up in accordance with these Rules, or if it is otherwise defective or not in order it may be rejected or return to the person presenting it, and it shall be rejected where time has been allowed by the Court for the removal of any defect and such defect has not been removed within such time or such further time as the Court may allow.

256. *Production of documents.*—Subject to any orders that may be passed by the Court the parties or their Advocates shall on the date fixed for the defendant's appearance produce all the documents in their possession on which they intend to rely.

The Registrar or any other officer authorised by the Court may record admissions or denials on such documents.

257. *Filing of documents.*—All documents filed in the case shall be accompanied by a list signed by the party filing them or his Advocate. On every such document the Registrar or the Bench Reader; as the case may be, shall note the date of presentation under his initials.

258. *Issues.*—It shall not be incumbent upon the Court to frame issues unless it considers that the decision of the case will be assisted thereby.

259. *Absence of parties.*—Where on any day to which the hearing of the suit is adjourned the parties or any of them fail to

appear, the Court may proceed to dispose of the suit in such manner as it thinks just.

260. *Summoning of witnesses.*—An application for the issue of summonses to witnesses may be made by a party to the suit, or by his Advocate. Summonses shall be on the printed form which shall be filled up by the applicant, the date of appearance and the date of the summons being left blank. The date fixed for appearance shall be inserted by the office and the summons shall be dated and signed by an officer of the Court.

The Registrar may direct that in any particular case all the entries in the form be made by the office

261. *Allowance and diet money to witnesses.*—(1) The Rules contained in the appendix to Chapter XVII for the payment of travelling allowance and diet money to witnesses in criminal proceedings shall with such modifications and adaptations as may be found necessary also apply to civil proceedings, provided that in special cases or in cases not specifically covered by these Rules, the Court may allow such payment to be made to them as it may think fit.

(2) In the case of a person summoned to give evidence as an expert the Court may allow such remuneration as it may consider reasonable for the time occupied in giving evidence or in performing any work of an expert character necessary for the case.

262. *Deposit of travelling allowance and diet money.*—A party applying for a summons shall, before the summons is granted and within a period to be fixed by the Registrar, deposit with the Cashier such amount as may appear to the Registrar to be sufficient to defray the reasonable travelling expenses and diet money for one day's appearance in Court of such witness. In the case of a person summoned to give evidence as an expert the Registrar may also require the party applying for summons to deposit with cashier such further sum as may in his view be sufficient to enable payment to be made to such witness by way or remuneration under the next preceding Rule.

In case of any disagreement or doubt as to the amount to be deposited under this Rule, the matter shall be decided by the Registrar.

263. *Issue of Summons* —After the deposit required by Rule 262 has been made the Deputy Registrar shall cause the summons to be issued.

264. *Witness required to attend on a subsequent day.*—(1) If the evidence of a witness is not taken or completed on the first day on which he attends the Court in obedience to a summons, the party summoning him shall before 4 p.m. on that day deposit with the cashier an amount sufficient to enable the witness to attend on the subsequent day and if on such subsequent day also his evidence is not taken or completed a similar procedure shall be followed:

Provided that the party may if it so desires make payment to the witness direct in the presence of the Court of the Deputy Registrar and file the receipt in Court.

(2) If the expenses of a witness are not paid by the party summoning him in accordance with subrule (1), the witness shall not be bound to remain in attendance on any subsequent day.

265. *Payment to witnesses of money deposited with cashier.*—Where expenses have been deposited with the cashier under the next preceding Rule, they shall be paid to the witness on the next day.

266. *Claim by witness.*—Any claim made by a witness with respect to the expenses payable to him may be considered and decided by the Bench hearing the case or by an officer authorised by it.

267. *Original proceedings.*—The Rules contained in this Chapter shall, with such modifications and adaptations as may be necessary, also apply to other original proceedings instituted in the Court.

268. *Extra-ordinary civil jurisdiction.*—The Rules contained in this Chapter with respect to the trial of suits instituted in this Court shall, so far as may be, also apply to—

- (1) any suit removed from any court subject to the superintendence of the Court to be tried and determined by it in the exercise of its Extra ordinary Original Civil Jurisdiction; &
- (2) any suit and other original proceeding withdrawn from a subordinate court under Article 228 of the Constitution:

Provided that any such suit or proceeding shall unless otherwise ordered proceed from the stage at which it was before it was so removed or withdrawn.

269. *Court's Powers to give directions in matters of practice and procedure.*—The court may in any suit or proceeding under this Chapter give such directions in matters of practice and procedure as it shall consider just and expedient

## CHAPTER XVI.

### TAXATION OF ADVOCATES FEES.

270. *Preliminary.*—The Rules contained in this Chapter shall regulate the inclusion of Advocate's fees in the taxation of costs.

271. *Suits, application for probate and letters of administration and appeals from original or appellute decrees.*—(1) The fee to be allowed on taxation in a contested suit, or a contested application for probate or letters of administration, or an appeal, contested or uncontested, from an original or appellate decree in a suit shall subject to a minimum of Rs. 75/- in a suit or an application for probate or letters of administration or a First Appeal and Rs. 32/- in a second Appeal, be an amount calculated on the value of the claim in accordance with the following scale, namely:—

(i) on the first Rs.	5,000	7½	per cent.
(ii) on the next Rs.	15,000	3	per cent.
(iii) on the next Rs.	30,000	1½	per cent.
(iv) on the remainder		1	per cent.

(2) When any suit or application for probate or letter of administration is decided ex part, on confession of judgment or on compromise, or withdrawn, or dismissed for default, the amount of

fee to be included in the taxation of costs shall be one half of the amount calculated in accordance with the scale given in sub-rule (1) subject to a minimum of Rs. 75/-.

272. *First appeal in which application for summary determination is made.*—The fee to be allowed on taxation in a First Appeal on the disposal of an application for the summary determination of such appeal under rule 111 of Chapter VIII shall be as follows:—

(i) Where the application for the summary determination of an appeal is allowed and the appeal dismissed, the fees shall be as in sub-rule (i) of rule 271.

(ii) Where the application for the summary determination of an appeal is rejected, one-fourth of the amount of fee taxable under sub-rule (i) of rule 271 shall, subject to a minimum of Rs. 50, be allowed to the appellant as against the party which made the application. Any order as to costs passed under this clause shall not effect the costs in the appeal.

273. *Case under section 14 (2) of the Indian Arbitration Act, 1940.*—The amount of fee to be allowed on taxation in a case under sub-section (2) of section 14 of the Indian Arbitration Act, 1940, shall subject to a minimum of Rs. 50, be an amount calculated on the value of the claim in accordance with the following scale, namely:—

(i) on the first Rs.	5,000	4 per cent.
(ii) on the next Rs.	15,000	2 per cent.
(iii) on the next Rs.	30,000	1 per cent.
(iv) on the remainder		$\frac{1}{2}$ per cent.

274. *Case under section 20 of the Indian Arbitration Act, 1940.*—The fees to be allowed on taxation in a case under section 20 of the Indian Arbitration Act, 1940, shall be such as the Court may direct.

275. *Matrimonial cases.*—In Matrimonial suits and appeals arising there from the fees to be allowed on taxation shall, subject to such order as the Court may, having regard to the difficulty or duration of the case, allow, be as given below, namely:—

(1) in an undefended case Rs. 200/-

(2) in a defended case—

(i) up to the end of the first day of hearing. Rs. 200/-,

(ii) for each succeeding day or part of a day, such part being of not less than one hour's duration—Rs. 100/-

276. *Cases under the Indian Income Tax Act, 1922.*—(1) The amount of fee to be allowed to the Advocate for the Commissioner of Income Tax on taxation in a case under the Indian Income Tax Act, 1922, shall be subject to the following rules namely:—

(a) (i) In a case under section 66 (1) or (2) of the Indian Income Tax Act, 1922, such fee shall be included as may be

fixed by the Court not being less than Rs. 100 or more than Rs. 200.

(ii) For contesting an application under section 66 (3) of the Indian Income Tax Act, 1922, a fee of Rs. 75 in any one of the first twelve cases and a fee of Rs. 50 in any one of the cases above that number in any calendar year shall be included:

Provided that the Court may in any case of special complexity allow a higher fee.

(b) The Advocate for the Commissioner of Income Tax shall in every case under section 66 (3) of the Indian Income Tax Act, 1922, certify the amount of fee payable to him under this Rule.

(c) Where a higher fee is fixed by the Court under the proviso to sub-rule (1) (a) (ii) above it shall be included in the taxation of costs provided such Advocate files a certificate within one month from the date of the order passed by the Court or within such further time as the Court may on application made by him allow that he has received the consent of the Government to the payment to him of such higher fee

(2) The fee payable to the Advocate for the other party shall be such as may be fixed by the Court in each case and shall be included in the taxation of costs provided a certificate as required by rule 292 of this Chapter has been duly filed showing the payment to such Advocate of a fee not less in amount than the amount of fee allowed by the Court. Where the fee so paid is less than the fee allowed by the Court such lesser fee alone shall be included in the taxation of costs.

277. *Certain miscellaneous cases.*—In a miscellaneous case for the setting aside of an abatement or an *ex parte* decree or an order dismissing a case for default, a fee of Rs. 50 shall be allowed in the case of a First Appeal and Rs. 32 in any other case.

278. *Application under Article 226 of the Constitution.*—Where the Court while disposing of an application for a direction or order or writ under Article 226 of the Constitution allows costs but does not specify the amount of Advocate's fee, the fee to be allowed shall be fifty rupees.

279 *Cases not specifically provided for.*—In cases not specifically provided for in this Chapter including Execution Appeals, Appeals from Orders, Revisions, applications under Chapter XXIII, References, cases under the Indian Companies Act, 1913, and testamentary and Intestate cases other than applications for probate or letters of administration, the fee shall, if the claim is capable of valuation, be an amount calculated, on the value of the claim in accordance with the following scale, namely:—

(i) on the first Rs.	5,000	....	5 percent.
(ii) on the next Rs	45,000	....	1 percent.
(iii) on the remainder	....	....	$\frac{1}{2}$ percent.



The minimum taxable fee in such cases shall be Rs. 32 and the maximum, unless otherwise ordered by the Court, Rs. 1000.

280. *Additional fees.*—The following fees shall be allowed on taxation in addition to those allowable under the preceding Rules, namely:—

(i) For each application numbered as a miscellaneous application—

(a) contested .... Rs. 32.

(b) uncontested .... Rs. 24.

Provided that the Court may in special cases allow a larger or a smaller sum or disallow any fee.

(ii) For each affidavit filed in support of an application or an answer thereto or a reply to such answer, if any Rs. 15.

Provided that the Court may allow a larger or a smaller sum having regard to the circumstances of the case or wholly disallow any fee if the affidavit does not contain proper particulars and material averments or is prolix or contains unnecessary or irrelevant matter.

(iii) For settling of documents for translation and printing in First Appeals.—

(a) If the number of documents in the list does not exceed 16 ... Rs. 24.

(b) if the number of documents in the list exceeds 16 but does not exceed 48 ..... Rs. 48

(c) for each additional document beyond 48—Annas six.

Provided that the whole or any part of such fee or the whole or any part of the costs of the appeal may be disallowed by the Bench hearing the appeal, if in the selection of documents for inclusion in the list unnecessary documents or groups of document of the same tenor have been included or material documents omitted.

281. *Cross-objection.*—Any cross-objection filed under rule 22 of Order XLI of the Code shall, for the purposes of this Chapter, be treated as separate appeal.

282. *Value of the claim.*—The value of the claim in rules 271, 272, 273 and 279 shall be the value stated in the plaint in the case of a suit, the value stated in the memorandum of appeal in the case of an appeal, the value stated as that of the property in respect of which the application is made in the case of an application for probate or letters of administration, and in other cases, the value as stated in the application if the case is one in which the relief claimed is capable of valuation. Fractions of a rupee shall be omitted from the value of the claim in calculating fees.

283. *Cases in which relief is one incapable of valuation.*—In a case referred to in the next preceding Rule in which the claim is incapable of valuation in the manner provided in that Rule, the Court may allow such fees as it may consider reasonable.

284. *Court may allow higher or lower fee or disallow any fee.*—Notwithstanding anything contained in Rules 271, 272, 273, 275, 276, 277, 279 and 281, the Court may allow a higher fee if in its opinion the fee allowable under the Rules is having regard to the circumstances of the case, inadequate or may for sufficient cause shown allow a lower fee or order that no fee be entered in the table of costs of a party.

285. *Several defendants succeeding upon a joint common defence.*—Where several defendants whether arrayed as appellants or respondents in this Court having a joint or common interest, succeed upon a joint defence to the suit or upon separate defences which are substantially the same, the total sum to be entered in their joint table or in their respective tables of costs shall not exceed that allowable under the Rule applicable to the class to which the case belongs, unless the Bench hearing the case orders otherwise.

If only one fee is allowed, the Court may indicate to which of the defendants it shall be paid or may apportion it amongst them in such manner as it may think fit. If the Court makes no such order, the Taxing Officer shall apportion it equally among such defendants as may have appeared by an Advocate at the hearing of the case.

This Rule shall with necessary modifications also apply to original suits in this Court.

286. *Several defendants succeeding upon separate and distinct defences.*—Where several defendants whether arrayed as appellants or respondents in this Court having separate interests have set up separate and distinct defences, a separate fee as allowable under the Rule applicable to the class to which the case belongs may, if the court so orders, be allowed in respect of the separate interest of each such defendant as may have appeared at the hearing by a separate Advocate and succeeded upon his separate and distinct defence.

This Rule shall with necessary modifications also apply to original suits in this Court.

287. *Effect of falsely valuing the claim.*—Notwithstanding anything contained in these Rules, the Court may order that no sum in respect of Advocate's fee shall be included in the table of costs of a party, in whose plaint, memorandum of appeal or application, as the case may be, the value of the claim has been falsely and dishonestly stated. In such case, the Court may allow such additional sum to be included in the table of costs of the other party on account of Advocate's fee as may appear to it to be reasonable.

288. *Fee of Advocate not present.*—No fee with respect to any Advocate shall unless he is present at the hearing of the case or the Bench hearing the case directs otherwise, be included in the taxation of costs.

289. *Fees of state counsel in cases under Court Fees Act, 1870 and Stamp Act, 1899, as adapted to Rajasthan.*—These Rules shall also regulate the inclusion of Advocate's fee in the taxation of costs in favour of or against the State in cases under the Court Fees Act, 1870, as adapted to Rajasthan or the Stamp Act, 1899, as adapted to Rajasthan in which although the Government is not a party, costs are awarded to or against the Government by the Court.

290. *Fees of State Counsel in enquiring to pauperism.*—In an enquiry as to pauperism under order XXXIII of the Code, the fee in respect of the Advocate for the State who as such has opposed the application for permission to sue or appeal as a pauper or has applied for the dispaupering of a plaintiff or an appellant shall be Rs. 75/—.

Provided that the Court may by special order allow such fee as it may consider proper not exceeding an amount calculated according to the provisions of sub-rule (1) of rule 271.

291. *Fee of Advocate's clerk.*—A sum calculated at the rate of 5 per cent on the taxed fee of the Advocate of a party shall subject to a minimum of two rupees be included in the taxation of costs on account of the fee of such Advocate clerk.

This Rule shall also apply to the clerk of the Government Advocate, the amount so included being on realisation credited to Government.

292. *Certificate of fees.*—(1) Except in the case of an Advocate appearing for the [State or Central Government or any Department of the State or Central Government or the statutory bodies constituted under the State or Central Laws or Official Liquidator] or the Court of Wards, no fee shall be included in the taxation of costs unless the Taxing Officer is satisfied that the fee was paid to the Advocate prior to the delivery of the judgment or the order by which costs became payable and unless the party claiming to have such fee included in the taxation of costs has prior to the delivery of such judgment or order filed a certificate signed by the Advocate concerned showing that such fee has actually been paid to him by or on behalf of such party :

Provided that the certificate filed after the time mentioned above but before the judgement or order is signed may for sufficient cause shown be accepted for inclusion in the taxation of costs by the Bench deciding the case.

*Notes.*

Words in brackets in sub-rule (1) appearing between words "for the" and "or the" stand substituted for the previous word "Government" vide notification No. L.

(2) The certificate under this Rule shall be in the prescribed form and shall be presented by the Advocate or his clerk :—

- (a) if the case is before the Court, to the Reader concerned, and
- (b) in other cases, to the Office between the hours of 11 a.m. and 12 noon.

The person presenting the certificate shall obtain the signature of the officer receiving it on the counterfoil. The officer receiving the certificate shall also endorse thereon the date and the hour of its presentation.

In exceptional cases such certificate may be presented to the Reader or the Registrar between the hours of 3 and 3.30 p. m.

## CHAPTER XVII.

### Original Trials

293. *Nomination of a Judge.*—Every case committed to the High Court for trial under the provisions of the Code of Criminal Procedure, 1898, shall be laid before the Chief Justice for nominating a Judge to preside over the trial.

294. *Notice under section 335, Criminal Procedure Code.*—After the date of hearing has been fixed; such officer as the Chief Justice directs shall give the necessary notice in the Official Gazette as required by sub-section (3) of section 335 of the Code of Criminal Procedure, 1898.

295. *Paper Book.*—As soon as the record has been received, a paper-book shall be prepared. The Paper Book shall contain, as nearly as may be, copies of the following papers, namely :—

- (i) first information report;
- (ii) confession or statement recorded under section 164 of the Code of Criminal Procedure;
- (iii) dying declaration;
- (iv) injuring report;
- (v) post-mortem examination report;
- (vi) Chemical Examiner's report;
- (vii) report of Serologist to the Government of India;
- (viii) record of identification proceedings;
- (ix) other documentary evidence except the site plan;
- (x) complaint, report or information upon which the offence was taken cognizance of by the court making the commitment;
- (xi) statement of witnesses recorded by the court making the commitment;
- (xii) examination of the accused;
- (xiii) charge framed against the accused;
- (xiv) order of commitment;
- (xv) calendar;
- (xvi) such other paper or papers as the Court may direct; and
- (xvii) site plan.

The paper-book shall contain a fly sheet and an index of the papers included therein arranged in the order indicated above.

296. *Paper book to be typewritten.*—The paper-book shall be type-written and six copies thereof shall be prepared.

297. *Information to Legal Remembrancer.*—Three copies of the paper-book shall be retained for the use of the Court and one each shall be supplied to the Legal Remembrancer to the State

Government, the Government Advocate and the Advocate for the accused.

298. *Summoning of Jurors, witnesses etc.*—The Clerk of the State \* shall call upon the Sessions Judge of Jodhpur or Jaipur, as the case may be, to secure the attendance of not less than thirty-six jurors in the High Court on the date fixed for the commencement of the session, indicating whether the jurors shall, in view of the provisions of section 276 of the Code of Criminal Procedure, 1898, be summoned from the common jury list or the special jury list.

He shall call upon the District Magistrate of the district from where the commitment has been received to procure the attendance of the accused and the witnesses in the case on the dates fixed for the hearing of the case.

He shall also call upon the District Magistrate of Jodhpur or Jaipur, as the case may be, to arrange for the attendance of an Inspector of Police with a sufficient number of police constables to have charge of the prisoners, to keep order in Court and to attend to such other matters as may be directed by the Court or the Clerk of the State.

299. *Service of summonses upon jurors.*—Every summons to a juror shall be served at least ten clear days before the first day of the commencement of the session.

300. *Juror not to be summoned again within twelve months.*—No juror who has served at any session shall be summoned again within twelve months unless the requisite number of jurors cannot be made up without him.

301. *Choosing jurors by lot.*—In every trial by jury, the jurors shall be chosen by lot in the following manner, namely:—

The Clerk of the State shall cause to be placed together in one box cards containing the numbers of all the persons summoned to serve on the jury in accordance with the order in which their names occur in the list of jurors except those who may have been exempted from attendance. The cards shall as nearly as possible be of the same size. The Clerk of the State shall then in open Court cause the box to be shaken so as to disarrange the cards and then draw or cause to be drawn out of the said box so many of the said cards one after another as may be required to make up the number of the jury.

302. *Locking up jury.*—The Presiding Judge may pass such orders as he deems fit as to whether and in what manner the jurors shall be kept together under the charge of an officer of the Court or whether they shall be allowed to return to their respective homes.

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Foot-note.—\*Under section 4 (e) of the Code of Criminal Procedure, the Chief Justice has specially appointed the Registrar to discharge the functions given by the Code to the Clerk of the State. He has also appointed the Clerk of the State to act under Sec. 334 of the Code of Criminal Procedure, 1898.

303. *Duties of court officer.*—It shall be the duty of the Court Officer to be in attendance at the trial, to look after the arrangement regarding the seating of witnesses and jurors, calling them into the Court-rooms as required, the payment of allowances and diet monies to them and other matters connected with the trial.

304. *Trial by Jury of certain cases not committed to the Court.*—Where a case other than a case committed to the High Court is tried by jury, the procedure prescribed for the trial of a case on commitment shall, as nearly as may be, be followed.

305. *Cases withdrawn by or transferred to the Court.*—Where a case is tried by the Court in the exercise of its extraordinary original criminal jurisdiction or where the court withdraws any case for trial before itself under Article 228 of the Constitution or sub-section (2) of section 526 of the Code of Criminal Procedure or orders that the case be committed for trial to or be transferred to itself under sub-section (1) of section 526A of the Code of Criminal Procedure, 1898, the procedure provided in this Chapter shall, as nearly as may be, be followed, subject to the provisions of section 267 of the Code of Criminal Procedure.

#### Notes

This rule provides that the cases withdrawn by or transferred to the High Court shall be tried in accordance with the provisions of Chapter XVII of these rules and section 227 of the Code of Criminal Procedure. The case in exercise of extraordinary Original Criminal jurisdiction under section 22 of the Rajasthan High Court Ordinance, 1949 shall also be tried similarly.

It is under Article 228 of the Constitution of India and sub-section (2) of section 526 and sub-section (1) of section 526A of the Criminal Procedure Code that the cases can be withdrawn or transferred to the High Court.

Section 22 of the Rajasthan High Court Ordinance, 1949 provides that:—The High Court shall have extraordinary original Criminal jurisdiction over all persons residing in places within the jurisdiction of any Court subject to its superintendence, and shall have authority to try at its discretion any such persons brought before it on charges preferred by any Magistrate or other officer specially empowered by the Government in that behalf.

The Article 228 of the Constitution of India authorises the High Court to withdraw a case when it is satisfied that a case pending in a Court subordinate to it involves a substantial question of law as to the interpretation of the Constitution, the determination of which is necessary for the disposal of the case. On such withdrawal the High Court may—

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

Sub-section (2) of Section 526 and sub-section (1) of section 526A of the Code of Criminal Procedure read as under:—

(2) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(1) Where any person subject to the Naval Discipline Act other than a person to whom that Act applies by virtue of the Indian Navy (Discipline) Act, 1934, or

to the Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (a) to section 41 of the Army Act, the Advocate-General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

306. *Information by Advocate General under section 194 (2) of the Code of Criminal Procedure.*—In cases coming up to the Court on information exhibited by the Advocate General under sub-section (2) of section 194 of the Code of Criminal Procedure, 1898, the trial may proceed as in a summons case or a warrant case or may be tried summarily according as the nature of the case may require. If the Court so directs, any case which may be tried summarily may be tried as a summons case or a warrant case, as the case may be, or any case which may be tried as a summons case may be tried as a warrant case. Any such trial may, if the High Court so directs, be by jury.

## CHAPTER XVIII

### PROCEEDINGS OTHER THAN ORIGINAL TRIALS.

307. *Presentation of petition of appeal or application for revision.*—Every petition of appeal or application for revision or other application in a criminal matter shall be presented before the official appointed for the purpose by the Registrar, who shall immediately fix a date not more than five days ahead. On that date, the party filing the petition of appeal or application or his Counsel should attend in office to ascertain the progress of the matter. The official concerned shall in the meanwhile examine the petition or application with a view to seeing whether it is in order, properly stamped and within time and submit a report in the prescribed form to the Registrar.

308 *Office report on petition for appeal or application for revision.*—The report shall relate to the following matters namely, in the case of an appeal.—

- (i) whether it lies to this Court;
- (ii) whether it is within time,
- (iii) whether it is accompanied by the requisite papers;
- (iv) whether any court-fee is payable and if a court-fee is payable, whether the court fee paid is sufficient; and
- (v) whether an appeal had been previously filed on behalf of the appellant or any other person tried along with him and if it had been so filed the result, in case the appeal has been decided.

In the case of a revision—

- (i) Whether a revision had been previously filed in the Court of the Sessions Judge or the District Magistrate, as the case may be;
- (ii) whether it has been filed within ninety days excluding the time taken in obtaining the requisite copies;
- (iii) whether it is accompanied by the requisite papers;

- (iv) whether any court-fee is payable and if a court fee is payable, whether the court-fee paid is sufficient.
- (v) whether an application for revision had been previously filed on behalf of the applicant or any other person tried along with him and if it had been so filed, the result, in case the revision has been decided.

309- *Fixation of date of hearing of petitions or application and the procedure for disposal thereof.*—(1) The Registrar shall fix in each case a date of hearing by the Bench. Intimation of the date shall be given to the party or his Counsel and his signature taken on the order-sheet in token of receipt of intimation.

(2) The date fixed shall ordinarily not be more than a fortnight ahead.

(3) If a party desires any particular petition or application to be disposed of expeditiously, he should present a separate stamped petition in that behalf and the urgent petition or application will thereupon be placed by the Registrar before the Court as early as possible.

(4) All petitions for the grant of bail will be treated as urgent by the Registrar. Such petitions filed before 1 p. m. on days other than Saturdays should be placed before the appropriate Bench the same day. Petitions received after 1 p. m. should be placed before the appropriate Bench on the following working day. Petitions received on Saturday should be fixed for the next working day but may, if the Judge is present in Court and has no objection, be dealt with on the same day.

310. *Admission or dismissal of an application or petition.*—The Bench hearing the petition or application may—

- (i) in the case of a petition of appeal make an order admitting it and directing notice to be issued; and
- (ii) in the case of an application for revision or other application dismiss it or direct notice to be issued or pass such other order as it may deem fit:

Provided that nothing contained in this Rule shall preclude the Bench from dismissing any petition of appeal under section 421 of the Code of Criminal Procedure, 1898, or require notice of an application to be issued where notice of such application has already been served upon the other party or his Advocate.

311. *Particulars, to be contained in a petition of appeal and application for revision.*—(1) Every petition of appeal or application for revision shall state—

- (a) the name and, where the appeal or revision is not on behalf of the State, the address of each appellant or applicant;
- (b) the name and, where the opposite party is not the State, the address of each opposite party;
- (c) the Court from whose order the appeal or revision is filed and the name of the presiding officer of such Court;



- (d) the nature of the order passed including the sentence awarded, if any, by such Court;
- (e) the provision of law defining the offence of which the accused person was convicted or acquitted by such Court or under which he was dealt with by such Court;
- (f) the ground or grounds, numbered consecutively, of objection to the order from which the appeal or revision is filed; and
- (g) the relief sought; and shall be signed by the appellant or the applicant, as the case may be, or by an Advocate on his behalf.

(2) A petition of appeal from an appellate order of acquittal or an application for the revision of an order passed in appeal or revision shall also state the name and description of the Court which tried the case in the first instance and the nature of the order passed by it.

(3) In a case in which a sentence of imprisonment has been awarded, the petition of appeal or the application for revision or an application under section 561. A Criminal procedure code shall also contain a certificate signed by the Advocate for the appellant or the applicant, as the case may be, stating that the accused was not on bail, or that, if he was on bail, he has surrendered to it. In a case in which bail has been granted by the Court appealed from under sub-section (2A) of section 426 of the Code of Criminal Procedure, the fact shall be stated in the petition of appeal.

#### Notes

The words "or an application under section 561A criminal Procedure Code" occurring after the words "application for revision" have been added vide Notification No 29/S.R.O. dated 8-11-55, published in Rajasthan Raj-patra, dated 10-12-55 Part IV (c).

312. *Mentioning of fact of previous presentation of a petition of appeal or application for revision to the officer incharge of Jail.*—Where a petition of appeal or an application for revision has been previously presented by the appellant to the officer-in-charge of the Jail, the petition of appeal or application for revision filed on his behalf through an Advocate shall mention that fact if known to such Advocate.

313. *Copies of Judgment or order.*—Every criminal appeal or revision shall be accompanied by a copy of the judgement or order appealed against or sought to be revised and, where there has been an appeal or a revision in a subordinate court, by copies of the judgement of all the subordinate Courts:

Provided that if the copies of judgements referred to above are hand-written, they shall be accompanied by uncertified typed copies thereof.

#### Notes.

This Proviso had been newly added vide Notifications No.D.

Provided that the Court may for sufficient cause shown dispense with any such copy.

A petition of appeal in the case of a trial by a jury shall also be accompanied by a copy of the heads of the charge to the jury

recorded under sub-section (5) of section 367 of the Code of Criminal Procedure.

314. *Petition of appeal, application or affidavit to be accompanied by copies.*—Every petition of appeal or application or affidavit filed in Court shall be accompanied by as many typed copies thereof as there be parties to be served, together with :—

- (i) two extra copies in a Division Bench case or in an application for bail or stay of proceedings in a case pending before a Court of Session;
- (ii) one extra copy in every other case.

No order shall issue from the Court on a petition of appeal or application unless the required number of such copies has been supplied.

315. *Cases to be registered and numbered.*—(1) The following applications shall be registered and numbered after presentation as criminal miscellaneous cases, namely :—

- (a) application for bail;
- (b) application for cancellation of bail;
- (c) application for transfer of a case;
- (d) application for withdrawal of a case from a subordinate Court;
- (e) application under section 491 of the Code of Criminal Procedure;
- (f) application under section 99B of the Code of Criminal Procedure.
- (g) application for stay of operation of order of or proceedings in, a lower Court;
- (h) application for the issue of a writ under Article 226 of the Constitution in a criminal matter;
- (i) application under section 476 or 476A of the Code of Criminal Procedure, 1898; and
- (j) application for the taking of proceedings in contempt of Court.

(2) Cases in which the Court takes proceedings under section 476 or 476A of the Code of Criminal Procedure, 1898, or issues notice for contempt of Court otherwise than on an application and references under section 341 of the Code of Criminal Procedure, 1898, shall also be registered and numbered as criminal miscellaneous cases.

316. *Issue of notices.*—If an appeal is not dismissed summarily, a day shall be fixed for its hearing and notices in the prescribed form shall be issued.

In the case of an application for revision or other application, such date shall be fixed and notices issued if the application is not rejected and an order directing the issue of notice is made.

After notices have been issued in appeal of revision, the record shall be sent for unless otherwise ordered.

In the case of an appeal under section 476B of the Code of Criminal Procedure, 1898, the record of the case out of which the

proceedings under appeal arose shall also be sent for unless otherwise ordered

317. *Personal attendance of accused in custody.*—Where the accused is in custody, his personal attendance shall not be required unless so ordered by the Court. A prayer for the personal attendance of the accused in Court shall not ordinarily be entertained if not made in sufficient time before the date of hearing to enable arrangements to be made with the superintendent of the jail in which the accused is confined for his attendance in the Court.

318 *Jail appeals and revisions.*—(1) Rules 307, 311 and 314 shall not apply in the case of a petition of appeal or an application for revision presented by an accused who is confined in jail to the officer in-charge of the jail. Where a petition of appeal or an application for revision has been so presented, the officer-in-charge of the jail shall have recorded thereon the name and other particulars of the applicant or appellant, as the case may be, the particulars of the case from which the appeal or revision arises and the dates when the application for copy of judgment was despatched, when the copy was received and when the appeal or application was presented by the accused, and forwarded such petition or application along with the requisite copies to the Court with as little delay as possible.

(2) On receipt of such petition of appeal or application for revision, the office shall examine it and endorse thereon a report containing as nearly as may be the particulars required under Rule 308 and the Registrar shall thereafter submit it to a Judge for orders. If the case is one which cannot be dealt with by a Judge sitting singly, the orders passed by the Judge shall be laid before another Judge for concurrence before they are issued. If the Judge does not dismiss the appeal or revision summarily and orders notice to be issued, the procedure prescribed for appeals and revisions presented in Court shall as nearly as may be, be followed.

319. *Jail appeal to be connected with a previously filed appeal.*—Jail appeals shall be submitted to a Judge for orders after the expiry of the period of limitation, jail appeals by accused persons convicted in the same trial being submitted together. If a represented appeal arising out of the same case has been presented previously in Court, the fact shall be noted on the fly sheet before the papers are submitted to a Judge for orders and the Judge shall, if such appeal has not already been decided, direct that the appeal be admitted and connected with such previous appeal.

320. *When jail appeal is presented beyond time.*—Where a jail appeal is presented after the expiry of the period of limitation, the officer-in-charge of the jail shall submit along with it a report as to the cause of delay. Where no such report has been submitted, a report shall be called for from the jail concerned as to the cause of delay. Such report shall be laid before the Judge to whom the appeal is sub-mitted for orders.

321. *Information to prisoner of summary dismissal of jail appeal.*—Where a Jail appeal is dismissed summarily under section 421 of the code of criminal procedure 1898, information shall be sent to the prisoner through the officer-in-charge of the prison in which he is lodged and also to the Sessions Judge concerned.

#### Notes

The present rule stands as substituted vide Notification No. 26/S.R.O. dated 13-5-54, published in Rajasthan Rajpatra dated 17-7-54 part IV (c). The Original rule was as under:—

Where a jail appeal is dismissed summarily under section 421 of the Code of Criminal Procedure, 1898, information shall be sent to the prisoner through the Sessions Judge concerned.

322. *Revisions and other applications from prisoners in jail.*—Rules 319, 320 and 321 shall, as nearly as may be, be followed in the case of a jail revision. Other applications received from a prisoner through the officer-in-charge of the jail in which he is confined shall be laid before the appropriate Bench for orders.

323. *Application for bail.*—(1) No application for bail shall be entertained unless the accused has surrendered except where he has been released on bail after conviction under sub-section (2A) of section 426 of the Code of Criminal Procedure. The application shall state that the accused has surrendered and is in custody or that he has after his conviction been released on bail by the lower court under sub-section (2A) of section 426 of the Code of Criminal Procedure, 1898.

(2) Every application for bail in a case which is under investigation or which is pending in a lower court shall state whether application for bail had or had not been previously made before the Magistrate and the Sessions Judge concerned and the results of such applications, if any.

(3) Every application for bail in a case in which leave has been granted for appeal to the supreme Court shall state whether any application for bail had been moved in the supreme Court and if so, with what result.

#### Notes.

The sub-rule has been newly added vide Notification No. 22/S.R.O. dated 2-5-54, published in Rajasthan Rajpatra dated 17-7-54 part IV (c).

(4) Save in exceptional circumstances, no order for bail shall be made—

(i) on an application relating to cases pending in lower court, unless notice thereof has been given to the Government Advocate and at least three days have elapsed between the giving of such notice and the hearing of such application, and

(ii) in case of applications relating to appeals and revisions in the High Court, unless notice thereof has been given to the Government Advocate and at least twentytwo hours have elapsed between the giving of

such notice and the hearing of such applications, such applications for bail shall indicate that such previous notice has been given to the Government Advocate.

324. *Contempt of Court.*—(1) Where an application for the taking of proceedings in contempt of court is presented before a Judge other than the Chief Justice, he shall direct that it be laid before the Chief Justice for orders. And the Registrar shall, on receipt of a report against any person of contempt of court, lay the papers before the Chief Justice for orders.

(2) The Provisions of sub-rule (i) shall not be applicable in cases where the contempt consists in disobedience of a Judicial order of the High court. In such cases, the bench Concerned may pass appropriate orders and the application or report need not be laid before the Chief Justice for orders.

#### Notes

This sub-rule (2) has been newly added vide amending Notification No. 9/ S.R.O. dated 29-3-55, published in Rajasthan Rajparta dated 30-4-55 part IV (c). Original sub-rule (2) has been accordingly renumbered as sub-rule (3).

(3) Where an order has been made directing that notice be issued to any person to show cause why he should not be punished for contempt of court, a date shall be fixed for hearing and notice thereof in the prescribed form given to the person concerned as also to the Government Advocate. The notice shall contain a substance of the allegations made against such person and require him to appear unless otherwise ordered in person before the Court at the time and on the date specified therein to show cause why he should not be punished for contempt of Court.

325. *Reference under section 438 Criminal Procedure Code.*—(1) On receipt of a reference from a Sessions Judge or a District Magistrate under section 438 of the Code of Criminal Procedure, 1898, the office shall examine it and see if it is in order and ascertain whether it is accompanied by the explanation of the presiding officer of the court whose proceedings were under examination by the referring Court as required by rule 80 of General Rule (Criminal) and if not, whether the Court making the reference has given reasons for not submitting such explanation along with the reference. The defects, if any, shall immediately be brought to the notice of the Registrar.

(2) If within two weeks of the receipt of such reference no appearance is put in on behalf of any party, the papers shall be submitted to a Judge in Chambers for orders. Where appearance is put in on behalf of any party before the case is laid before a Judge in Chambers, the case shall be listed in Court for orders.

326. *Revision arising out of an order of a Judge on a Sessions statement etc.*—Where a Judge acting under section 435 of the Code of Criminal Procedure, 1898, directs on the perusal of a sessions

statement or a periodical return or a judgment or otherwise that the record be sent for or that notice be given to the accused to show cause why his sentence should not be enhanced, a copy of the order accompanied by all relevant extracts and references, if any, shall be sent to the Criminal Branch of the Judicial Department and the case shall be registered as a revision and proceeded with accordingly.

327. *Notices*—Notices in different classes of cases shall, unless otherwise ordered, be issued as indicated below, namely—

(1) Appeal: Where an appeal has not been dismissed summarily a notice of the time and place at which such appeal will be heard, shall be given to—

- (i) the appellant or his Advocate or where the State is the appellant, to the Government Advocate, and
- (ii) where the State is not the appellant, to the Government Advocate and where the State is the appellant, to the respondents as also to the Court appealed from.

(2) Revision: Where notice has been directed to be issued, notice shall be given to the applicant, if any, or his Advocate and the Government Advocate, as also to such opposite parties as may be arrayed in the application. Where the State is the applicant, notice shall be given to the Government Advocate and such opposite parties as may be arrayed in the application.

Where the Court acting under section 439 of the Code of Criminal Procedure, 1898, otherwise than on a reference made to it under section 438 directs notice to be issued, notice shall be given to the Government Advocate and the accused or, in a case in which there has been no conviction or acquittal, the parties affected by the order passed in the case.

(3) Reference: where notice has been directed to be issued on a reference under section 438 of the Code of Criminal Procedure, notice shall be given in accordance with clause (2).

On a reference under section 307 of the Code of Criminal Procedure, 1898, notice shall be given to the Government Advocate and the accused.

On a reference under section 374 of the Code of Criminal Procedure, 1898, notice shall be given to the Government Advocate and the accused.

On a reference under section 341 of the Code of Criminal Procedure, 1898, notice shall be given to the Government Advocate and, if possible, to the accused or his guardian or Advocate.

(4) Miscellaneous Application: In a miscellaneous application notice shall be given to the applicant, the Government Advocate and the opposite Parties and where the application is on behalf of the State, to the Government Advocate and the opposite parties.

328. *Notice to prisoner confined in jail to show cause against enhancement of sentence.*—Where notice is sent to the officer in charge of a jail for service upon a prisoner confined in the jail calling upon him to show cause why his sentence should not be enhanced, it shall require such officer to serve the notice and return it along with an endorsement showing that the notice has been served upon the prisoner and that he has been informed that he can appear either in person or by an Advocate in the High Court and that if he desires to appear in person, necessary arrangements will be made for his presence in that Court by him through the District Magistrate. It shall further require him to indicate whether the prisoner wishes to appear in person and show cause against his conviction or declines to appear in person or to show cause against such conviction.

### PAPER BOOK.

329. *Rules 228 and 229 to apply to preparation of paper book.*—Except as otherwise provided in this Chapter, Rules 228 and 229 of Chapter XIV shall, with necessary modifications and adaptations, apply to the preparation of a paper-book in a criminal case under this Chapter.

330. *Paper book in criminal appeal.*—Copies to be included in the paper-book of a criminal appeal (other than a jail appeal or an appeal under section 476B of the Code of Criminal Procedure, 1898, or a reference under section 307 or 374 of the Code of Criminal Procedure, 1898) or a case in which the accused has been called upon to show cause why his sentence should not be enhanced shall, unless otherwise ordered, be those of the following papers or such of them as may be on the record of a case, namely—

#### Notes

The bracket previously enclosing the words "should not be enhanced" has now been Correctly put so as to enclose the words and figures "Criminal Procedure, 1898" through amending Notification No. 6/S.R.O. dated 2-3-54, published in Rajasthan Rajpatra dated 8-5-54 part I (B).

#### (A) Papers relating to investigation—

- (i) first information report;
- (ii) confession or statement recorded under section 164 of the Code of Criminal Procedure;
- (iii) dying declaration;
- (iv) injury report;
- (v) post mortem report;
- (vi) report of the Chemical Examiner;
- (vii) report of the Serologist to the Government of India;
- (viii) record of identification proceeding, and
- (ix) recovery list.

## (B) Papers relating to Magisterial Enquiry—

- (i) statements of witnesses recorded by the Magistrate which have been brought on the record of the Sessions Court;
- (ii) examination of the accused and his written statement, if any; and
- (iii) the charge framed against the accused.

## (C) Papers relating to proceedings before the Sessions Court—

- (i) amended charge,
- (ii) plea of the accused,
- (iii) statements, of witnesses,
- (iv) examination of the accused and his written statements, if any,
- (v) important exhibits other than those covered under heads A & B,
- (vi) in the case of a trial by jury, the heads of the charge to the Jury recorded under sub-section (5) of section 367 of the Code of Criminal Procedure, and
- (vii) Judgment.

## (D) papers relating to trial by Magistrate (in case of an appeal against acquittal).

- (i) Complaint, if any.
- (ii) Statements of witnesses recorded by the Magistrate.
- (iii) Examination of the accused and his written statement if any.
- (iv) The charge framed against the accused and his plea.
- (v) Important exhibits other than those covered under head (A).
- (vi) Judgment.

*Notes*

Para (D) has been newly inserted vide Notification No. 15/S.R.O. dated 26-8-53 published in Rajasthan Rajpatra dated 19-9-53 part II and previous para (D) has been renumbered as para (E).

## (E) High Court papers—

## Petition of appeal.

331. *Paper book in an appeal under section 476B, Criminal Procedure Code.*—Copies to be included in the paper-book of an appeal under section 476 B of the Code of Criminal Procedure shall, unless otherwise ordered, be those of the following papers or such of them as may be on the record, namely—

- (a) petitions of appeal,
- (b) judgment or order under appeal,
- (c) application together with annexures, if any, made under section 476 or 476A of the Code of Criminal Procedure,
- (d) reply to such application,
- (e) affidavit filed by the parties relating to the charge,
- (f) evidence recorded at the preliminary enquiry, and



(g) complaint made in consequence of the judgment or order under appeal.

332. *Paper book in a criminal revision.*—The paper-book of a criminal revision shall consist of the High Court papers.

Where the copy of the judgment included in the High Court papers is not in English or in the language of the State, a translation of such judgment in English shall also be included in the paper book.

333. *Paper book in a reference under section 438, Criminal Procedure Code.*—The paper-book of a reference under section 438 of the Code of Criminal Procedure, 1898, other than one in which the recommendation is that the sentence passed upon the accused be enhanced, shall, in addition to the fly-sheet and the index, consist of—

- (i) the order for reference.
- (ii) the explanation, if any, of the Court against whose order the reference has been made,
- (iii) the judgment or order under reference,
- (iv) the memorandum of appeal or revision filed in the Court making the reference.

334. *Paper book in a contempt of court case.*—In a case of contempt of Court, copies to be included in the paper-book, shall, as nearly as may be, be of the following papers, namely—

- (i) application or report or order with relevant annexures, if any, upon which the notice was issued, and
- (ii) the order directing issue of notice.

Copies of the following papers shall be added to the paper-book from time to time as occasion arises, namely—

- (a) affidavits filed in the case;
- (b) order passed by the Court.

335. *Paper book in a reference under Section 341 of the Criminal Procedure Code.*—In a reference under section 341 of the Code of Criminal Procedure, the paper-book shall, as nearly as may be, be as in the case of criminal appeal.

336. *Paper book in a Jail appeal.*—The paper-book in a Jail appeal shall consist of a fly sheet and the High Court papers.

337. *No paper-book in other cases.*—In other cases, no paper-book shall be prepared unless otherwise ordered.

338. *No paper book in a case before Single Judge.*—No paper-book shall as a rule be prepared in a case listed for hearing before a single Judge

339. *Printed paper book in an appeal to Supreme Court.*—A printed paper-book shall be prepared only where it is required for the purpose of an appeal in the Supreme Court or where its preparation is specially ordered by the Chief Justice.

340. *Printing paper book to be sent to Supreme Court.*—As soon as intimation is received of the filing of an appeal in the Supreme Court under Article 134 (1) (a) and (b), or of the grant by the Supreme Court of special leave to appeal in any case, or

as soon as leave to appeal to the Supreme Court is granted in any case by the High Court, the record in the case shall be arranged to be printed in accordance with the Rules of the Supreme Court, and the required number of copies of the printed record shall be despatched to the Registrar of the Supreme Court within the period prescribed by the Supreme Court Rules

341. *Number of printed paper books.*—Where a printed paper-book is prepared under these Rules, twenty-five copies thereof shall be printed.

The Registrar may, where necessary, direct a larger number of copies to be printed.

342. *Number of typewritten paper books.*—(1) Where a type-written Paper-book is prepared, two copies thereof shall be prepared in a case which may be heard by a Judge sitting alone and three in other cases, one copy being given in either case to the Government Advocate for his use.

(2) The Advocates for the parties may, except in a case of contempt of Court, apply for the preparation of as many copies of such paper book as may be required for their use on payment at such rates as may be fixed by the Chief Justice from time to time. Such copies may be supplied if the Registrar can conveniently arrange to have them prepared by the office. No application for such copies shall be considered if made after the lapse of thirty days from the date on which the appeal is admitted or in the case of a reference under section 307 or 341 of the Code of Criminal Procedure, 1898, after the lapse of thirty days from the date on which such reference is received by the Court, or in a case in which notice has been given to the accused to show cause why his sentence should not be enhanced, after the lapse of thirty days from the date on which such notice is served. In the case of an appeal under section 417 of the Criminal Procedure Code (Act. No. V of 1898), the application may be made within thirty days of the date on which notice of the appeal is served on the accused or a warrant issued for his arrest is executed.

#### Notes.

The last sentence beginning with "In the case of" and ending with "arrest is executed" has been added in the above sub rule (2) vide amending Notification No. 30/S.R.O. dated 16-12-53 published in Rajasthan Rajpatra dated 23-1-54 part II.

"(3) In case of an appeal under section 417 Criminal Procedure Code and in Case where notice is given to the accused to show cause why his sentence should not be enhanced provided the accused has not filed an appeal against his Conviction, a copy of the paper book shall be given to the accused free of cost.

The number of copies to be prepared in such cases shall be increased accordingly.

*Notes*

This sub-rule has been newly added through amending Notification No. 14/S.R.O. dated 15-3-54, published in Rajasthan Rajpatra dated 1-5-54 part I (B).

334 (4) The amicus curiae appointed' in a case under section 302 I.P.C. shall get a copy of the paper book free of cost.

*Notes*

Sub-rule (4) has been newly added vide Notification No. 10/S.R.O. dated 16-4-55, published in Rajasthan Rajpatra dated 30-4-55 part IV (c),

343. *Material exhibits.*—when the record of a Sessions case has been received in an appeal or reference under section 307 or 374 of the Code of Criminal Procedure, 1898, and there are material exhibits in the case, the office shall see whether the Judge has recorded an order as required by rule 111 of General Rules (Criminal), regarding such exhibits and whether the exhibits required by such order to be submitted to the High Court have been received. Any defect shall immediately be brought to the notice of the Sessions Judge.

Where there are material exhibits in the case and no order under the rule mentioned above has been recorded by the Judge, his attention shall immediately be drawn to such omission and he shall be asked to state what material exhibits are fit for submission to the High Court and, in case they have not already been forwarded to the Court, to submit them without delay.

344 *Custody of material exhibits.*—All material exhibits received in a case shall be examined by and kept in charge of the clerk concerned. He shall enter them in the appropriate register showing the number of the case in which and the Court from which each exhibit has been received. He shall see that all such exhibits are in accordance with the list, if any, on the record of the case. Where no such list exists, he shall himself prepare one in duplicate and have it checked and signed by the Superintendent. The duplicate copy of such list shall be sent to the court from which the exhibits have been received, the original being placed on the record of the case. Any discrepancy in the number or condition of exhibits shall immediately be brought to the notice of the Registrar. All valuable exhibits consisting of ornaments, cash or currency notes shall be kept in an iron safe, the key of which shall remain with the Registrar or such officer as he may nominate. All exhibits shall be kept in a locked room.

345. *Application or petition by post.*—The officer in charge of a jail may forward an application or petition presented to him by a prisoner confined in the jail to the Court by post. Any other application or petition received by post shall be returned for presentation either in person or through an Advocate or where the prisoner is confined in a jail through the officer in charge of the jail concerned.

346. *Recommendation for mercy.*—In a case in which the Court makes a recommendation to the State Government for the exercise of the prerogative of mercy; copy of the Court's judgment together with a copy of the judgment of the court below shall be forwarded to the State Government along with a letter setting out the recommendation. Where a printed paper book has been prepared, a copy of such paper-book shall also be forwarded along with the letter.

347. *Signing of notices and warrants.*—(a) All summonses and notices issued by the Court in criminal cases shall be signed by the Deputy Registrar, Assistant Registrar or the Superintendent, Judicial.

(b) All warrants issued by the Court in criminal cases shall be signed by the Registrar, the Deputy Registrar or the Assistant Registrar.

348. *Registrar to sign complaint under chapter XXXV of the Code of Criminal Procedure.*—Where an order has been passed under Chapter XXXV of the Code of Criminal Procedure that a complaint be made, such complaint shall be drawn up and signed by the Registrar after it has been approved by the Judge or Judges passing the order.

349. *List of ready cases.*—A list of cases ready for hearing shall be prepared from time to time and posted on the notice board.

350. *Adjournment on request by Government Advocate.*—In special cases if the Government advocate is not ready or needs instructions from the District Magistrate or some other authority or requires the attendance of some officer to instruct him at the time of hearing, he may apply to the Registrar that the case may not be listed for a specified period or that a particular date be fixed for its hearing. The Registrar may thereafter fix a date after consulting the Advocate for the other party.

351 (1) *Issue of orders after decision.*—Where a sentence of death has been confirmed or passed by the Court, an order in the prescribed form shall be issued immediately to the Court concerned. Such order shall be signed by two Judges.

In a case in which a sentence has been set aside or a conviction has been reversed or there has been a reduction or alteration in the nature of the sentence or an accused who is on the bail has been ordered to surrender to his bail on decision of the case, a copy of the relevant entry in the order-sheet shall at once be forwarded to the court concerned along with a letter in the prescribed form.

A copy of the judgment shall in every such case be certified to the court concerned in due course.

(2) In other cases an order in the appropriate form shall be issued to the court concerned as soon as the judgment or order of the Court has been received in the office and shall be accompanied by a copy of such judgment or order.

352. *Copy of judgment to be sent to the Magistrate.*—Where in a case decided by the Court the proceedings of a Magistrate were under consideration, an additional copy of the judgment shall be sent to the Sessions Judge for being forwarded to the Magistrate concerned through the District Magistrate

353. *Copies of paper books to be forwarded to the Government when sentences are passed.*—In a case in which a sentence of death has been confirmed or passed by the Court or where a sentence has been enhanced to one of death, two copies of the printed paper-book along with two copies of the Court's judgment shall be forwarded to the State Government. Where no printed paper-book has been prepared, the original paper-book containing the proceedings of the court below shall be forwarded along with two copies of the Court's Judgement to the State Government with a request that the original paper-book be returned when no longer required.

## CHAPTER XIX.

### LISTS OF JURORS.

354. *Persons liable to serve as jurors.*—Every male person who—

- (i) is above twenty-one and below sixty years of age;
- (ii) resides or personally works for gain within the local limits of the district of Jodhpur or Jaipur as the case may be; and

(iii) who—

(a) is the occupier of a house situated within the said local limits of the annual value of not less than Rs. 400; or

(b) owns immovable property within the State of Rajasthan of the value of not less than Rs. 3,000; or

(c) is in receipt of an income of not less than Rs. 125 per mensem;

shall, subject to the exceptions mentioned in the next following Rules, be liable to serve as a juror at the criminal sessions of this Court.

355. *Ineligibility for service as juror.*—Any person—

(a) who holds any office or employment in or under the Court;

(b) who is a police officer or is engaged in any preventive service;

(c) who has been convicted of a non-bailable offence;

(d) who is suffering from such bodily or mental infirmity as incapacitates him from serving as a juror; or

(e) who is unable to understand the language of the Court;

shall be ineligible for service as a juror.

356. *Exemptions.*—The following person are exempt from liability to serve as jurors, namely—

(1) officers in civil employ superior in rank to a district magistrate;

(2) salaried judges;

(3) ministers and parliamentary secretaries;

(4) members of any Legislature in India;

(5) members of the personal staff of His Highness the Rajpramukh;

(6) secretaries to Government;

(7) secretary to the Board of Revenue;

(8) Legal Remembrancer to Government;

(9) salaried Magistrates;

(10) all persons actually officiating as priests or ministers of their respective religions;

(11) legal practitioners in actual practice;

(12) agents or managers of banks;

(13) persons employed in the Postal and Telegraph Departments;

(14) surgeons and physicians who openly and constantly practise the profession of medicine;

(15) the under-mentioned railway officers—

(i) Divisional Superintendent;

(ii) District Engineer;

(iii) Station Masters and Assistant Station Masters;

(iv) Permanent Way Inspectors;

(v) Locomotive Foremen and Engine Drivers;

(16) Officer Commanding at Jodhpur or Jaipur;

(17) all persons exempted by the State Government from personal appearance in Court under section 133 of the Code of Civil procedure, and

(18) all persons exempted by the State Government from serving as a juror under sub-section (4) of section 313 or clause (1) of section 320 of the Code of Criminal Procedure.

357. *Preliminary lists of common and special jurors.*—(1) The Clerk of the State shall prepare by the twenty-fifth day of March each year preliminary lists of common and special jurors for Jodhpur and Jaipur respectively containing such numbers of names as he may consider fit of persons appearing to him after due inquiry to be qualified and liable under the foregoing Rules to serve as jurors. Such lists shall describe each person's style, calling, place of residence and the qualification which makes him liable to serve as a juror and shall be signed by the Clerk of the State.

(2) In preparing the list of special jurors, the Clerk of the State shall keep in view the provisions of sub-section (2) of section 313 and section 325 of the Code of Criminal Procedure.

358. *Publication of preliminary lists.*—Copies of lists shall be affixed to some conspicuous part of the Court house at Jodhpur

or Jaipur, as the case may be, and the lists shall also be published in the Official Gazette before the seventh day of April next after their preparation.

359. *Revised lists.*—Any person whose name has been improperly inserted in or omitted from such lists or who is wrongly or defectively described in them may on or before the twentieth day of April following the publication of such lists apply to the Clerk of the State for the correction and amendment of such lists and the Clerk of the State shall forthwith make all such corrections as shall seem to him to be necessary. The revised lists shall be published in the Official Gazette before the first day of May next after preparation.

Copies of the revised lists shall also be affixed to some conspicuous part of the Court House at Jodhpur or Jaipur, as the case may be.

## CHAPTER XX.

### EXAMINATION OF JUDGMENTS OF SESSIONS JUDGES

360. *Submission of Judgments in Sessions trial to Judges.*—(1) Copies of judgments in session trials received monthly from Sessions Judges shall remain with the Superintendent, Judicial Department, for two months from the last date of the month in which such judgments are received and shall thereafter be submitted without delay to judges for perusal and orders in groups as approved by the Chief Justice. The same group shall be submitted to one and the same Judge for two consecutive months. Before such Judgments are submitted to Judges, they shall be duly entered in the appropriate register and a note made on each judgment after an examination of relevant registers whether an appeal or application for revision from such judgement has been received or filed in Court. Where no appeal lies to the High Court, a note shall be made on the judgment to that effect. Judgments shall be submitted to Judges in separate batches under appropriate heads.

(2) During the long vacation such judgments shall be submitted only to judges sitting during the vacation in equal proportions.

361. *Orders by the Judge.*—Where a Judge on a perusal of a judgment directs that the record be sent for or notice issued, the appropriate procedure prescribed by these Rules therefor shall be followed. If the order passed by the Judge contains a criticism of the judgment, it shall be put up before the Registrar for necessary orders.

362. *Register of submission of Judgments to Judges.*—The Superintendent, Judicial Department, shall make a note in the appropriate register of the date of submission of each judgment to the Judge concerned and shall within two months from such date obtain from that Judge its return together with his order, if any, thereon and shall also record the date of such return in the register.

## CHAPTER XXI.

HABEAS CORPUS AND RULES UNDER SUB-SECTION (2) OF SECTION 491  
OF THE CODE OF CRIMINAL PROCEDURE, 1898.

## Notes

Sub-section (1) of section 491 of Code of Criminal Procedure authorises the High Court, whenever it thinks fit, to direct :—

(a) that a person within the limits of its appellate criminal jurisdiction be brought up before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(e) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(f) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

Sub-section (2) of section 491 of Criminal Procedure Code authorises the High Court to frame rules regulating the procedure in cases under this section. The rules in this Chapter have been framed in pursuance of this authority.

363. *Application*.—An application under sub-section (1) of section 491 of the Code of Criminal Procedure or for a writ in the nature of *habeas corpus*, if not sent by post, shall be presented to the Registrar who shall direct that the application be laid before a Division Bench for orders.

364. *Application by Post*.—The application if received by post shall be put up as soon as possible after the receipt thereof before a Division Bench for orders.

365. *Contents of Application & affidavit*.—The application shall be accompanied by an affidavit of the person restrained stating that it is made at his instance and setting out the nature and the circumstances of such restraint. It shall also state if any previous application had been filed or not on his behalf and, in case such application had been filed, its result :

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person and such affidavit shall also state the reason why the person restrained is unable to make the affidavit himself.

366. *Application by Court-martial or any Commissioners*.—Where the application is on behalf of a court martial or any Commissioners under clause (d) of sub-section (1) of section 491 of the Code of Criminal Procedure, 1898, it may be in the form of a letter addressed to the Registrar setting out the circumstances in which the order is sought and need not be accompanied by an affidavit. The Registrar shall lay the letter as soon as possible after the receipt thereof before a Division Bench for orders.



367. *Contents of application under section 491 (1) (e) of the Code of Criminal Procedure.*—Where the application is for an order under clause (e) of sub-section (1) of section 491 of the Code of Criminal Procedure, the affidavit accompanying it shall state in whose custody the prisoner is detained, to what other custody it is proposed to remove him and the reason for the change of custody. Before any orders are passed, notice of such application shall be served upon the prisoner and he shall be given an opportunity to be heard against such application.

368. *Warrant.*—In any case in which the Court orders any person in custody to be brought before it, or before a Court-martial or before any Commissioners, or to be removed from one custody to another a warrant shall be prepared and signed by the Registrar and sealed with the seal of the Court.

369. *Service of warrant.*—Such warrant shall, where the person is under detention in a jail, be forwarded by the Registrar to the officer-in charge of the jail in which the prisoner is confined; in every other case of the warrant shall be served upon the person to whom it is directed, personally or otherwise as the Court may direct.

370. *Notice.*—If the Court does not find sufficient reason to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served upon the person against whom the order is sought calling upon him to appear on a day to be named therein to show cause why the application should not be granted, and, if the Court so orders, the notice may also direct such person at the same time to produce in Court the body of the person alleged to be illegally or improperly detained then and there to be dealt with according to law.

The Court may also order that notice of the application be served upon such other person or persons as it may consider proper. Such notice shall, if the Court so directs, be accompanied by copies of the application and the affidavit, the copies being supplied by the applicant.

371. *Orders on application.*—After the service of notice on the day fixed for hearing or on any subsequent day to which the hearing may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall in the case of a person found to be illegally or improperly detained, pass an order that he be set at liberty or delivered to the person entitled to his custody. In other case the Court shall pass such orders as the circumstances of the case may require. If cause is allowed, the application shall be dismissed. The order for release made by the Court shall be a sufficient warrant to any gaoler or other public servant, or other person for the release of the person under restraint.

372. *Procedure.*—All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit and in

that case it may follow such procedure as it may deem just.

373. *Costs*.—In disposing of an application under this Chapter, the Court may make such order as to costs as it may consider just.

374. *Communication of orders*.—Any orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

## CHAPTER XXII.

### DIRECTION, ORDER OR WRIT UNDER ARTICLE 226 OF THE CONSTITUTION OTHER THAN A WRIT IN THE NATURE OF HABEAS CORPUS.

#### Notes.

Article 226 of the Constitution of India empowers the High Court to issue certain Writs, directions or orders for the enforcement of any of the rights conferred by the Constitution of India and for any other purpose.

The procedure for regulating the cases of Habeas Corpus has been prescribed under Chapter XI of these rules. This Chapter prescribes the procedure for regulating the applications under Article 226 of the Constitution in cases other than a writ in the nature of Habeas Corpus.

375. *Application and its contents*—(1) An application for a direction or order or writ under Article 226 of the Constitution other than a writ in the nature of *habeas corpus* shall be presented to the Registrar who shall direct that the application be laid before a Division Bench for orders;

Provided that the following matters shall ordinarily be laid for orders before a Judge sitting alone :—

(a) Matters arising out of Municipal or Panchayat elections in which the constitutionality of any provision of law is not challenged.

(b) Applications relating to orders of Gram Panchayats, Tehsil Panchayats, or District and Sessions Judges purporting to have been passed under the Gram Panchayat Act.

#### Notes.

Present proviso has been substituted for the previous one vide notification No. A. Previous proviso stood as under which was added through amending notification No. 10n S. R. O. dated 4/5/56, published in Rajasthan Raj-patra part IV (c) dated 6/6/56;—

provided that an application relating to judicial cases in Panchayats shall ordinarily be laid for orders before a judge sitting alone”.

(2) The application shall state clearly the relief sought and the grounds upon which it is sought and be accompanied by an affidavit verifying the facts relied upon.

(3) The application shall also state whether or not any similar application has been made to the Supreme Court.

#### Notes —

This sub-rule has been newly added vide Notification No. 17/S. R.O. dated 28-4-54. published in Rajasthan Rajpatra dated 22-5-54 part I (B).

376. *Notice*.—If the Court does not find sufficient reason to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served on all persons directly affected by it. Where the application relates to any proceeding in

or before a Court and the object is either to compel the Court or an officer thereof to do any act in relation to such proceeding or to quash them or any order made therein, notice thereof shall also be served on such Court or officer as well as the other parties to such proceeding, and where any objection is taken with respect to the conduct of a Judge, also on the Judge.

377. *Notice to person not already served.*—If at the hearing of the application the Court is of opinion that any person who ought to have been served with notice of the application has not been so served, the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may consider proper.

Every notice under this or the next preceding Rule shall be accompanied by copies of the application and the affidavit, such copies being supplied by the applicant.

378. *Conditions as to costs or giving of security before issue of notice.*—The Court may, before issuing notice of the application, impose upon the applicant such terms as to costs or the giving of security as it may think fit.

379. *Application to be heard at least eight clear days after service of notice.*—(1) Unless the Court otherwise directs, the application shall be heard at least eight clear days after the service of notices issued under Rule 376.

(2) If a party on whom a notice is served under rule 376 files a written statement or affidavit, he shall also file along with it a written acknowledgement from the opposite party or his counsel of having received a copy thereof;

Provided that instead of filing the written acknowledgement mentioned above the party may apply at least 7 days before the date fixed for hearing of the case to the Deputy Registrar to have the copy or copies served on the applicant or his counsel.

#### Notes

This sub-rule has been newly inserted through amending Notification No. 7/S.R.O. dated 1/5/57, published in Rajasthan Rajpatra dated 23/5/57 part IV (c).

380. *Hearing person not served with notice.*—At the hearing of the application, any person who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard notwithstanding that he has not been served with notice under Rule 376 or 377.

381. *Application to be made by Advocate.*—An application under this Chapter shall be made by an Advocate and not by the party personally.

382. *No second application on the same facts.*—Where an application has been rejected, it shall not be competent for the applicant to make a second application on the same facts.

383. *Procedure.*—All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit and in that case it may follow such procedure as it may deem just.

384. *Costs.*—In disposing, of an application under this Chapter the Court may make such orders as to costs as it may consider just.

385. *Communication of orders.*—Any orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

## PART V CHAPTER XXIII.

### APPEALS TO THE SUPREME COURT OF INDIA.

#### *Notes*

The rules in this Chapter prescribe the procedure for petitions for leave to appeal to the Supreme Court of India for exercising its appellate jurisdiction under sections 109 and 110 of Civil Procedure Code and Articles 132, 133, 134 and 135 of the Constitution of India.

The aforesaid statutory provisions are reproduced below :—

Subject to the provisions in Chapter IV of Part V of the Constitution and such rules as may, from time to time, be made by Supreme Court regarding appeals from the Courts of India, and to the provisions hereinafter contained, an appeal shall lie to the Supreme Court—

(a) from any judgment, decree or final order passed on appeal by a High Court or by any other Court of final appellate jurisdiction;

(b) from any decree or final order passed by a High Court in the exercise of original civil jurisdiction; and

(c) from any [judgment, decree or final order], when the case, as hereinafter provided, is certified to be a fit one for appeal to the Supreme Court.

In each of the cases mentioned in clauses (a) and (b) of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be twenty thousand rupees or upwards, and the amount or value of the subject-matter in dispute on appeal to the Supreme Court must be the same sum or upwards.

or the judgment, decree or final order must involve, directly or indirectly, some claim or question to or respecting property of like amount or value,

and where the judgment, decree or final order appealed from affirms the decision of the Court immediately below the Court passing such judgment, decree or final order, the appeal must involve some substantial question of law.

(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided and, with the leave of the Supreme Court, on any other ground.

*Explanation.*—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies—

(a) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees or such other sum as may be specified in that behalf by Parliament by law; or

(b) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or

(c) that the case is a fit one for appeal to the Supreme Court; and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below in any case other than a case referred to in sub-clause (c), if the High Court further certifies that the appeal involves some substantial question of law.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

(1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court,—

(a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death ; or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death ; or

(c) certifies that the case is a fit one for appeal to the Supreme Court :

Provided that an appeal under sub-clause (c) shall lie subject to such provision as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

### *Section A—Cases Other Than Criminal Cases.*

386. *Title of petition.*—A petition for leave to appeal to the Supreme Court of India shall be entitled:

### IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

Petition for Leave to Appeal  
to  
the Supreme Court of India

under .....  
 Supreme Court Appeal No. .... of  
 from .....  
 .....No. .... of.....  
 .....Petitioner.  
 Versus  
 .....Opposite Party

387. *Contents of petition.*—The petition shall contain a brief statement of the case and the grounds of appeal.

In a case falling under section 110 of the Code or Article 133 (1) of the Constitution, it shall clearly state how it fulfils the requirements of law as regards the amount or value of the subject-matter or how it is otherwise a fit case for appeal to the Supreme Court.

In a case falling under Article 132 (1) of the Constitution, it shall state how a substantial question of law as to the interpretation of the Constitution is involved.

In a case falling under Article 135, it shall state how an appeal lies to the Supreme Court.

It shall not be necessary to file a copy of the Judgment, decree or final order with a petition under this rule.

#### Notes

The last para of the rule has been newly inserted through amending Notification No. 27/S. R.O. dated 14/6/54, published in Rajasthan Rajpatra dated 17/7/54 part IV (c).

388. *Limitation.*—Article 179 of the first schedule of the Indian Limitation Act, 1908, shall, subject to the provisions of any law for the time being in force, also apply to a petition for a certificate under Articles 132 (1), 133 (1) or 135 of the Constitution.

389. *Notices.*—(1) In connection with Supreme Court appeals, the following notices shall be issued, namely—

- (a) notice of petition for a certificate;
- (b) notice of admission of appeal; and
- (c) notice of despatch of the Record to the Supreme Court.

No other notice shall be necessary unless expressly provided for in these Rules or ordered by the Court.

(2) In all cases where a party has appeared by an Advocate, service of notice on such Advocate shall be deemed to be sufficient service.

(3) No process fee shall be levied in the case of a notice under clause (b) or (c) of sub-rule (1) where it may be served upon an Advocate.

390. *Amount of security for respondent Costs.*—The amount of security for the costs of the respondent required under rule 7 of Order XLV of the Code shall be two thousand five hundred rupees or such larger sum as may be ordered by the Court.

## Notes.

The words "four thousand rupees" have been replaced by the words "two thousand five hundred rupees" vide amending Notification No. 25/S. R. O. dated 13-5-54 published in Rajasthan Raj-patra dated 17-7-54 part IV(C).

391. *Further security*—Where the appellant is required to furnish further security under rule 10 of Order XLV of the Code, it shall in no case exceed five thousand rupees.

## Notes.

The words "ten thousand rupees" have been replaced by the words "five thousand rupees" vide amending Notification No. 25/S R. O. dated 13-5-54, published in Rajasthan Raj-patra dated 17-7-54 part IV (C).

392. *Nature of security to be furnished*.—Security to be furnished by the appellant or the respondent, as the case may be, under rule 10 or 13 or 14 of Order XLV of the Code shall consist of—

- (a) cash or
- (b) Government securities, or
- (c) Post Office National Savings Certificate, or
- (d) fixed deposit in the Imperial Bank of India, or
- (e) immovable property, if so permitted by the Court, or
- (f) such two or more of the foregoing as may be found necessary to secure the amount.

393. *No security for respondent's costs where appeal is by Government*.—No security for the costs of the respondent shall be required where the Government is the appellant to the Supreme Court

394. *Application for preparation of Record and estimate*.—

(1) When the certificate has been granted, the petitioner shall within ten days from the date of the grant of such certificate apply to the Registrar for the preparation of a list hereinafter referred to as List A, of papers to be included in the Record and a list, hereinafter referred to as List B, of all other papers, and the making of an estimate of the cost of preparing the Record and transmitting it to the Supreme Court.

(2) Where the decision of the appeal is likely to turn exclusively on a question of law, the appellant may apply for inclusion in List A of such parts only of the record as may be necessary for the discussion of the same.

395. *Lists that shall accompany application under Rule 324*.—

(1) The application mentioned in the next preceding Rule shall in a case in which a printed record has already been prepared for the use of this Court, be accompanied by—

- (i) a list of documents already printed but considered as not relevant to the subject-matter of the appeal;
- (ii) a list of documents printed on behalf of the opposite party and included in the list under clause (1); and
- (iii) a list of documents not already printed but printing of which is considered essential for the prosecution of the appeal, a short note being entered against each document

in the list showing in what respect its inclusion is essential.

(2) The petitioner shall serve copies of these lists on the Advocate for the opposite party.

396. *Initial deposit.*—An initial deposit of [two hundred rupees] shall be made by the petitioner within the period specified in Rule 394 (1) and no application under that Rule shall be entertained unless such deposit has been made.

*Notes:—*

Words “two hundred rupees” appearing in brackets have been substituted for the previous words sixteen rupees vide Notification No. J.

397. *Setting of Lists A & B and preparation of estimate.*—(1) The Registrar on receipt of the application under rule 394 the lists, if any, under rule 395 and the initial deposit under rule 396 shall prepare Lists A and B. In preparing these lists he shall give due consideration to the lists, if any, filed under rule 395 and follow the Instructions contained in the Supreme Court Rules relating to the preparation of the Record.

(2) The Registrar shall cause an estimate to be prepared in accordance with the Schedule to Chapter XIII of these Rules of the cost of translating transcribing, indexing and printing the Record, preparing a typewritten list of documents not to be printed and transmitting the Record to the Supreme Court. The estimate shall include an additional sum of one hundred rupees or such larger sum as the Registrar may deem fit, to cover any possible additional cost of preparation and transmission of the Record.

The rates given in the Schedule to Chapter XIII of these Rules shall be liable to alteration from time to time under the order of the Chief Justice.

(3) The Registrar shall within ten days of the application under rule 394 deliver copies of Lists A and B to the parties. He shall at the same time deliver a copy of the estimate to the Advocate for the petitioner.

398. *Objection to List A & B.*—Any party desiring to file any objection to the Lists prepared by the Registrar may do so within two weeks from the date of service of Lists A and B under the next proceeding rule after serving a copy thereof upon the Advocate for the other party.

399. *Final Settlement of Lists A and B.*—(1) If the parties are agreed as to any additions to or omissions from the Lists, such agreement shall be given effect to so far as it may be possible to do so consistently with the provisions of the Supreme Court Rules. If they do not agree, the objection shall be decided by the Registrar. Any party aggrieved by the decision of the Registrar may within seven days from the date of such decision furnish to the Registrar his grounds of objection to such decision which shall be laid before the Court in Chambers for orders.



under .....  
 Supreme Court Appeal No. .... of  
 from .....  
 .....No..... of.....  
 .....Petitioner.  
 Versus  
 ..... Opposite Party

387. *Contents of petition.*—The petition shall contain a brief statement of the case and the grounds of appeal.

In a case falling under section 110 of the Code or Article 133 (1) of the Constitution, it shall clearly state how it fulfils the requirements of law as regards the amount or value of the subject-matter or how it is otherwise a fit case for appeal to the Supreme Court.

In a case falling under Article 132 (1) of the Constitution, it shall state how a substantial question of law as to the interpretation of the Constitution is involved.

In a case falling under Article 135, it shall state how an appeal lies to the Supreme Court.

It shall not be necessary to file a copy of the Judgment, decree or final order with a petition under this rule.

#### Notes

The last para of the rule has been newly inserted through amending Notification No. 27/S. R. O. dated 14/6/54, published in Rajasthan Rajpatra dated 17/7/54 part IV (c).

388. *Limitation.*—Article 179 of the first schedule of the Indian Limitation Act, 1908, shall, subject to the provisions of any law for the time being in force, also apply to a petition for a certificate under Articles 132 (1), 133 (1) or 135 of the Constitution.

389. *Notices.*—(1) In connection with Supreme Court appeals, the following notices shall be issued, namely—

- (a) notice of petition for a certificate;
- (b) notice of admission of appeal; and
- (c) notice of despatch of the Record to the Supreme Court.

No other notice shall be necessary unless expressly provided for in these Rules or ordered by the Court.

(2) In all cases where a party has appeared by an Advocate, service of notice on such Advocate shall be deemed to be sufficient service.

(3) No process fee shall be levied in the case of a notice under clause (b) or (c) of sub-rule (1) where it may be served upon an Advocate.

390. *Amount of security for respondent Costs.*—The amount of security for the costs of the respondent required under rule 7 of Order XLV of the Code shall be two thousand five hundred rupees or such larger sum as may be ordered by the Court.

## Notes.

The words "four thousand rupees" have been replaced by the words "two thousand five hundred rupees" vide amending Notification No. 25/S. R. O. dated 13-5-54 published in Rajasthan Raj-patra dated 17-7-54 part IV(C).

391. *Further security*—Where the appellant is required to furnish further security under rule 10 of Order XLV of the Code, it shall in no case exceed five thousand rupees.

## Notes.

The words "ten thousand rupees" have been replaced by the words "five thousand rupees" vide amending Notification No. 25/S. R. O. dated 13-5-54, published in Rajasthan Raj-patra dated 17-7-54 part IV (C).

392. *Nature of security to be furnished.*—Security to be furnished by the appellant or the respondent, as the case may be, under rule 10 or 13 or 14 of Order XLV of the Code shall consist of—

- (a) cash or
- (b) Government securities, or
- (c) Post Office National Savings Certificate, or
- (d) fixed deposit in the Imperial Bank of India, or
- (e) immovable property, if so permitted by the Court, or
- (f) such two or more of the foregoing as may be found necessary to secure the amount.

393. *No security for respondent's costs where appeal is by Government.*—No security for the costs of the respondent shall be required where the Government is the appellant to the Supreme Court

394. *Application for preparation of Record and estimate.*—  
(1) When the certificate has been granted, the petitioner shall within ten days from the date of the grant of such certificate apply to the Registrar for the preparation of a list hereinafter referred to as List A, of papers to be included in the Record and a list, hereinafter referred to as List B, of all other papers, and the making of an estimate of the cost of preparing the Record and transmitting it to the Supreme Court.

(2) Where the decision of the appeal is likely to turn exclusively on a question of law, the appellant may apply for inclusion in List A of such parts only of the record as may be necessary for the discussion of the same.

395. *Lists that shall accompany application under Rule 324.*—  
(1) The application mentioned in the next preceding Rule shall in a case in which a printed record has already been prepared for the use of this Court, be accompanied by—

- (i) a list of documents already printed but considered as not relevant to the subject-matter of the appeal;
- (ii) a list of documents printed on behalf of the opposite party and included in the list under clause (1); and
- (iii) a list of documents not already printed but printing of which is considered essential for the prosecution of the appeal, a short note being entered against each document

in the list showing in what respect its inclusion is essential.

(2) The petitioner shall serve copies of these lists on the Advocate for the opposite party.

396. *Initial deposit.*—An initial deposit of [two hundred rupees] shall be made by the petitioner within the period specified in Rule 394 (1) and no application under that Rule shall be entertained unless such deposit has been made.

*Notes:—*

Words “two hundred rupees” appearing in brackets have been substituted for the previous words sixteen rupees vide Notification No. J.

397. *Setting of Lists A & B and preparation of estimate.*—

(1) The Registrar on receipt of the application under rule 394 the lists, if any, under rule 395 and the initial deposit under rule 396 shall prepare Lists A and B. In preparing these lists he shall give due consideration to the lists, if any, filed under rule 395 and follow the Instructions contained in the Supreme Court Rules relating to the preparation of the Record.

(2) The Registrar shall cause an estimate to be prepared in accordance with the Schedule to Chapter XIII of these Rules of the cost of translating transcribing, indexing and printing the Record, preparing a typewritten list of documents not to be printed and transmitting the Record to the Supreme Court. The estimate shall include an additional sum of one hundred rupees or such large sum as the Registrar may deem fit, to cover any possible additional cost of preparation and transmission of the Record.

The rates given in the Schedule to Chapter XIII of these Rules shall be liable to alteration from time to time under the order of the Chief Justice.

(3) The Registrar shall within ten days of the application under rule 394 deliver copies of Lists A and B to the parties. He shall at the same time deliver a copy of the estimate to the Advocate for the petitioner.

398. *Objection to List A & B.*—Any party desiring to file any objection to the Lists prepared by the Registrar may do so within two weeks from the date of service of Lists A and B under the next proceeding rule after serving a copy thereof upon the Advocate for the other party.

399. *Final Settlement of Lists A and B.*—(1) If the parties are agreed as to any additions to or omissions from the Lists, such agreement shall be given effect to so far as it may be possible to do so consistently with the provisions of the Supreme Court Rules. If they do not agree, the objection shall be decided by the Registrar. Any party aggrieved by the decision of the Registrar may within seven days from the date of such decision furnish to the Registrar his grounds of objection to such decision which shall be laid before the Court in Chambers for orders.

(2) After the Lists have been finally settled, a copy of the revised estimate, if any, shall be delivered to the Advocate for the petitioner.

(3) Where a paper is included in List A inspite of an objection by a party that it is unnecessary or irrelevant the Record shall indicate in the index of papers the fact that, and the party by whom, the inclusion of such paper was objected to as required by rule 4 of Order XV of the Supreme Court Rules.

400. *Translation of papers.*—All documents included in List A which are not in English and are not already translated shall be translated into English. All such translations shall be made or certified as correct by one of the Court translators.

401. *Index*—The index of documents included in the Record shall be in the form given below.

Serial number	Description of documents	Page	REMARKS.
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402. *Printing of record.*—The Record shall be arranged and printed in accordance with the instructions contained in the Supreme Court Rules.

403. *Transmission of Record to Supreme Court and notice thereof to parties.*—When the Record has been prepared, the Registrar shall transmit it to the Supreme Court in accordance with the directions contained in the Supreme Court Rules and follow it with a certificate as to the date or dates on which notice of the despatch of the Record was served upon the parties.

404. *Matters to be regulated by Supreme Court Rules.*—The following matters shall be regulated by the Supreme Court Rules as indicated, namely,—

- (a) withdrawal of appeal..... Order XII, rules 2 and 4, Order XVI, rule 6.
- (b) Cancellation of certificate on failure to furnish security or make the deposit ..... Order XII, r. 3.
- (c) Dismissal of appeal for want of effectual prosecution by the appellant..... Order XII, r. 5.
- (d) Consolidation appeals..... Order XII, r. 6.
- (e) Substitution of legal representative in case of death or change of status of a party or for any other reason..... Order XVI, r. 12.

- (f) Lodging of security for the costs of the respondent by a pauper appellant..... .. Order XIV, r. 3.

405. *Notice to appellant where special leave granted by Supreme Court.*—As soon as a certified copy of order of the Supreme Court granting special leave to appeal has been received by the Court, the Registrar shall give immediate notice thereof to the appellant.

406. *Certificate by Registrar to Supreme Court of notice to respondent.*—As soon as the respondent has been served with notice of the order declaring the appeal admitted or has otherwise become aware of it, the Registrar shall certify to the Registrar of the Supreme Court that the respondent has received notice or is otherwise aware of the order admitting the appeal or of the order of the Supreme Court giving the appellant special leave to appeal.

407. *Application of Rules in this Chapter and Order XLV of the Code to cases in which special leave has been granted.*—Subject to such special directions as may be given by the Supreme Court, the provisions of the Rules contained in this Chapter and of Order XLV of the Code shall, so far as may be and with such modification and adaptations as may be found necessary, apply to a case in which special leave to appeal has been granted by the Supreme Court, except that the time for the furnishing of security, the deposit of the amount required for the preparation of the Record and its transmission to the Supreme Court and the application for the preparation of Lists A and B shall, unless otherwise ordered by the Supreme Court, be reckoned as from the date on which notice of receipt of a certified copy of the order of the Supreme Court has been served on the appellant, instead of from the date of the grant of the certificate by the Court.

Service of notice upon the Agent of the appellant in the Supreme Court shall be deemed sufficient service under this Chapter.

408. *Taking of evidence in case of dispute as to legal representatives.*—Where it becomes necessary to take evidence in order to determine whether any person is or is not the proper person to be substituted, or entered, on the record in place of, or in addition to, the party on record, the Court may either take such evidence and to return it together with its findings and reasons and take such findings and reasons into consideration in determining the questions.

409. *Application for recovery of costs.*—No application for costs incurred in connection with an appeal to the Supreme Court shall be entertained except on proof that fourteen days' notice of the intention to make the application together with a memorandum

if costs claimed has been served on the other party before the application is presented.

410. *Registrar to lay before the Court for orders all cases which are not being affectively prosecuted.*—(1) With reference to rule 5 of Order XII of the Supreme Court Rule, the Registrar shall periodically and at short intervals examine the records of all appeals which have been declared admitted to see whether the appellant is showing due diligence in taking all necessary steps in connection with the preparation of the Record. In any case in which it appears to the Registrar that he is not prosecuting his appeal with due diligence, he shall call upon him to explain his default and, if no explanation or no explanation which appears to the Registrar to be sufficient, is offered, he may issue a notice calling upon him to show cause to the Court why it should not issue a certificate that the appeal has not been effectually prosecuted by him.

(2) The Court may, after hearing the parties, grant such certificate or give such other directions as the justice of the case may require.

(3) Where the Court issues such certificate in a case in which special leave to appeal was granted by the Supreme Court, information thereof shall be sent by the Registrar to the Supreme Court without delay.

411. *Application of Order XLV of the code to cases not governed by the Code.*—In a case not governed by the Code of Civil Procedure, the provisions of Order XLV of the Code shall, so far as may be and with such adaptations and modifications as may be found necessary, apply.

412. *Memoranda of costs.*—When the order of the Supreme Court is transmitted to the Court concerned for execution under Sub-rule (2) of rule 15 of Order XLV of the Code, there shall be attached thereto a memoranda of costs incurred by the parties in the Court in connection with the petition for leave to appeal to the Supreme Court, if any.

#### *Section B—Criminal Cases.*

413. *Application for a certificate under Article 132 (1) or 134 (1) (c) of the Constitution.*—(a) An application for a certificate under Article 132 (1) or 134 (1) (c) of the Constitution in a criminal proceeding may be made orally to the Court before or at the time when any judgment, final order or sentence is passed. The Court shall thereupon record an order granting or refusing to grant such certificate. Where no such oral application is made, a written application for such certificate may be made within seven days from the date of such judgment, final order or sentence and no application made beyond that period shall be entertained:

Provided that the Court may for sufficient cause shown extend the time.

(b) It shall not be necessary to file a copy of the Judgment, final order or sentence with an application under sub-rule (a) It shall further contain a certificate signed, by the Advocate for the applicant stating that the accused was not on bail or that, if he was on bail, he has surrendered to it.

*Notes.*

This sub-rule has been newly inserted vide amending Notification No. 27/S.R.O. dated 14/6/54, published in Rajasthan Rajpatra dated 17/7/54 part IV (c). The last sentence beginning with the words "*It shall further contain*" and ending with the words "*has surrendered to it*" has been further added to the rule through amending Notification No. 29/S.R.O. dated 8/11/55, published in Rajasthan Rajpatra dated 10/12/55 part IV (c).

*Contents of application.*—(c) The application shall state succinctly and clearly such facts as it may be necessary to state in order to enable the Court to determine whether such certificate ought to be granted and shall be signed by the applicant or his Advocate.

*Notice of application.*—(d) If the Court does not find sufficient reason to admit the application, it shall reject it Where the application is not so rejected, it shall be heard after notice thereof has been given to the Government Advocate and where the application is on behalf of the Government, to the respondent.

414. *Stay of sentence or order and grant of bail.*—On the applicant executing a bond with or without sureties undertaking to lodge an appeal in the Supreme Court within the prescribed time, the Court may—

(1) order that the execution of the sentence or order be stayed; or

(2) where the applicant is in confinement, admit him to bail on such terms as the Court may think fit pending the disposal of the application or where a certificate is granted, pending the lodging of an appeal in the Supreme Court.

Where the application is by the Government, no such bond shall be required before an order under this Rule is made.

415. *Preparation & printing of record.*—After the appeal has been lodged in the Supreme Court and a copy of the petition of appeal has been received from the Registrar of that Court, the Registrar shall with all convenient speed cause the Record to be prepared and printed keeping in view the period within which copies of the printed record are required to be despatched to the Supreme Court in cases falling under Article 134 (1) (a) and (b) of the Constitution.

416. *Inclusion of printed paper-book of the Court in the Record.*—The Registrar may include in the Record the printed paper-book, if any, prepared for the use of the Court at an earlier stage.

417. *Application for inclusion or exclusion of papers from the Record.*—If the parties desire that any papers be included in the

Record, they may make an application to the Registrar who shall consider it before the Record is finally prepared:

Provided that no consideration shall be given to such application if it is made after the Record has been sent to the press for printing or where the Registrar considers that the application was designedly or unnecessarily delayed.

418. *Notice of despatch of Record.*—As soon as the requisite number of copies of the Record has been despatched to the Supreme Court, the Registrar shall give notice thereof to the parties.

419. *No security for cost etc. required from any party.*—No party shall be required to deposit any security for costs in a proceeding under this Section.

420. *Application of certain Rules in Section A.*—Rules 386, 400, 401, 402 and 403 of Section A shall with such modifications and adaptations as may be found necessary also apply to appeals to the Supreme Court in criminal matters.

## PART VI. CHAPTER XXIV.

### SECTION A.

#### *Qualification and Admission of Advocates.*

##### *Notes*

The rules under this section have been framed in exercise of the powers conferred by sections 15 and 16 of the Rajasthan High Court Ordinance, 1949. The enabling sections read as under :—

The High Court shall have power to approve, admit and enrol such and so many advocates as to the High Court may seem meet; and such advocates shall be and are hereby authorised to appear for the suitors of the High Court and to plead or to act or to plead and act, for the said suitors, according as the High Court may by its rules and directions determine, and subject to such rules and directions.

The High Court shall have power to make rules from time to time for the qualifications and admission of proper persons to be advocates of the High Court and shall be empowered to remove or to suspend from practice, on reasonable cause, the said advocates and no person whatsoever but such advocates shall be allowed to act or to plead for, or on behalf of, any suitor in the High Court except that any suitor shall be allowed to appear, plead or act on his own behalf or on behalf of a cosutor.

421. *Qualification for Advocates.*—The following persons shall be qualified for admission as Advocates of the High Court:—

(a) Any person who is a Barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland.

(b) Any person who holds the LL. B. or any other higher or equivalent degree of any University established by law in the Union of India or who obtained any such degree from the University of Dacca, Lahore or Sind before August 15, 1947, or who has passed the Advocates Examination held by the Bombay Bar Council constituted under the Indian Bar Councils Act, 1926, and (a) who has *bona fide* practised in one or more of the Courts subordinate to the Rajasthan High Court



for a period of not less than two years, or (b) who has held Judicial Office for a period of not less than five years in British India, Dominion of India or India, as the case may be; or in an Indian State as defined in clause 2 (a) of Article 363 of the Constitution of India.

*Explanation:—*Practice as a Vakil of the 2nd grade under the rules of a High Court or an authority exercising the powers of a High Court in any of the Covenanted States shall be deemed to be a practice as a pleader.

#### Notes

Originally clause (b) of rule 421 was as under. It has now been replaced as above vide amending Notification No. 6/S.R.O. dated 31/3/53 published in Rajasthan Rajpatra dated 11/4/53 part II :—

(b) Any person who holds the LL.B. or any other higher or equivalent degree of any university established by law in the Union of India or who obtained any such degree from the University of Dacca, Lahore or Sind before August 15, 1947, or who has passed the Advocates Examination held by the Bombay Bar Council constituted under the Indian Bar Councils Act, 1926, and who has either practised for not less than two years as a pleader in the District Courts of Rajasthan or has held Judicial Office in Rajasthan for a period of not less than five years.

(c) Any person, who holds the LL. B. or any other higher or equivalent degree as mentioned in Clause (b) whose name is borne on the roll of Advocates of any other High Court in the Union of India and who has practised as such Advocate for a period of not less than two years preceding his application for enrolment provided that such an advocate gives an undertaking in his application to have his name removed from the roll of advocates of that High Court within 6 months from the date of his admission to the Rajasthan High Court.

#### Notes

Clause (c) of rule 421 was Originally as under. It has now been replaced as above through amending Notification No. 6/S.R.O. dated 31/3/53, published in Rajasthan Rajpatra dated 11/4/53 part II :—

(c) Any person, who holds the LL.B. or any other higher or equivalent degree as mentioned in Clause (b) whose name is borne on the roll of Advocates of any other High Court in the Union of India and who has been practising as such Advocate for a period of not less than two years immediately preceding his application for enrolment provided that such an advocate gives an undertaking in his application to have his name removed from the roll of Advocates of that High Court within 6 months from the date of his admission to the Rajasthan High Court.

(d) Any person whose name is borne on the roll of Advocates or Vakils of the I grade of any High Court or an authority exercising the powers of a High Court in any of the Covenanted States of Rajasthan and who was entitled to appear, act or plead in such Court or authority:

Provided that if such person not holding the LL.B. or any higher or equivalent degree of any University established by law in the Union of India fails to apply by the end of

December, 1951, he shall not be enrolled as an Advocate thereafter.

(e) Any displaced person who had been practising as an advocate immediately before his displacement in any area now included in Pakisthan or was entitled to practise in the High Court or any authority exercising the functions of a High Court.

422. *Mode of applying for admission as in Advocate.*—The mode of application for admission as an Advocate shall be by petition, containing the applicant's name, father's name and place of business. The applicant shall state in the petition, whether he holds any salaried appointment, or carries on any trade or business, and that it is his intention to practise permanently in Rajasthan, or whether he has been in any way punished by order made in proceedings for professional misconduct, or was refused admission or was struck off the rolls of any High Court in India or convicted by a Criminal Court for any offence or was adjudged an insolvent and has not been discharged.

Explanation:—

The term 'salaried appointment' does not include any part time appointment relating to the teaching or other work connected with law.

423. *The petition to be addressed to the High Court.*—The petition shall be addressed to the High Court and shall be presented to the Registrar, High Court or to the District Judge of the District concerned who shall forward the same to the Registrar.

424. *Presentation of certain documents by the applicant.*—(1) The applicant, if he is not already enrolled as a Legal Practitioner, shall present along with his petition, the documents hereinafter mentioned; provided that the High Court may order the production of any of such documents, even if the applicant is already so enrolled.

(i) (a) The certificate of the applicant's call to the English or to the Irish Bar, or of his admission to the Faculty of Advocates in Scotland; or

(b) The certificate of the applicant's having passed the examination for the LL.B. degree or any higher or equivalent degree of any University established by law in India, or the Advocates Examination held by the Bombay Bar Council; or

(c) the certificate of the applicant's having passed the examination for the LL.B. degree prior to August 15, 1947, held by the University of Dacca, Lahore or Sind, and

(ii) satisfactory testimonials of good character and conduct.

If the original certificates mentioned in clauses 1(a), 1(b) or 1(c) cannot for any sufficient reasons be produced, the applicant shall produce other satisfactory evidence of his call to the Bar, admission to the Faculty of Advocates, or passing the LL B. Examination, or Advocates Examination held by the Bombay Bar Council, as the case may be.

(2) Every pleader who applies to be admitted as an Advocate under clause (b) of rule 421 shall file with his application a certificate in the prescribed form the presiding officer of the Court in which he has been practising, and also from the District and Sessions Judge of the District in which he has been practising.

425. *Certificate of admission.*—The petition shall be considered by the Court, and if it is granted, a certificate of admission on the prescribed form, shall be supplied to the applicant on payment of the necessary fees and stamp duty (if any).

426. *Fee for enrolment as an advocate*—The fee for enrolment as an advocate payable in stamp duty on the certificate of enrolment shall be Rs. 400/-; provided,—

firstly that no fees shall be payable by a person who held a permanent certificate of enrolment as an advocate prior to the introduction of these rules, and

secondly that if a person holds a temporary certificate of enrolment, the amount of any enrolment or renewal fees previously paid by him shall be taken into account in determining the fee chargeable from him for a permanent certificate.

If the total amount of fees previously paid by him comes to Rs. 400/- or more, than no further fee shall be chargeable from him. If the total amount of fees previously paid comes to less than Rs. 400/-, the fee chargeable from him shall be the amount by which the total sum previously paid by him falls short of Rs. 400/-.

427. *Refusal to admitting certain cases.*—If any applicant for admission as an advocate holds any salaried appointment, or carries on any trade or business, the High Court may refuse to admit him or pass such orders on his application, as it thinks proper.

428. *Suspension of an Advocate in certain cases.*—Any person, who having been admitted as an Advocate shall accept any salaried appointment, or shall enter into any trade or business or shall advance money on interest to any person resident in the district or districts in which he practises or shall acquire any interest in any pending suit, or in any property in respect of which suit is intended to be brought in the State shall give notice thereof to the High Court, which may thereupon suspend such Advocate from practice, or pass such orders on it as it may think fit.

The notice shall be given through the presiding officer of the Court, in which he ordinarily practises.

429. *Certificate of enrolment as advocate.*—Any Advocate on payment of a fee Rs. 5 may obtain a certificate in the form prescribed under the signature of the Registrar of the High Court, and the seal of the Court that his name is borne on the roll of Advocate of the High Court.

430. *Forms.*—The forms set forth in Part II of Appendix A to these Rules, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

431. *Filing of a Vakalatnama or memorandum of appearance*—(1) No advocate shall act for any persons in any suit, appeal, or proceeding of the civil nature unless he has filed a Vakalatnama authorising him to do so and signed by such person or by his recognised agent or by some other person duly authorised by or under a power of attorney to make such appointment.

(2) An Advocate, who has been engaged for the purpose of pleading only, may plead on behalf of any party after he has filed in court a memorandum of appearance signed by himself and stating:—

(1) the names of the parties to the case;

(2) the name of the party for whom he appears; and

(3) the name of the person by whom he is authorised to appear.

(3) An Advocate who is engaged by another advocate who has been duly appointed to act in court on behalf of the party can only plead on behalf of the party without either filing a Vakalatnama or a memorandum of appearance.

432. *Receiving of monies or Securities for money by an advocate.*—No advocate shall receive any monies or securities for money unless he is distinctly authorised by his power-of-attorney to receive the same.

433. *Appearance of an advocate of another High Court before the High Court of Rajasthan.*—An advocate who is not on the roll of advocates of the Rajasthan High Court but is enrolled as an advocate in any other High Court in India may appear and plead before the High Court of Rajasthan with the permission of the Judge before whom he wants to appear on a properly stamped application in that behalf; provided that there be with him in such case an advocate on the roll of the High Court of Rajasthan.

434. *Execution of Vakalatnama*—Every Vakalatnama shall contain in full the name of the person, or where there are more than one, of every person who there by appoints the advocate to act on his behalf and shall be executed by every such person.

When the person by whom an advocate or pleader is appointed is unable to write his name, his mark upon the Vakalatnama shall be attested by a witness.

435. *Execution of a Vakalatnama by a person authorised by the principal*—When such Vakalatnama is not executed by the principal himself, but by some person claiming to appoint or give authority on his behalf, the Advocate shall not be recognised by the Court without proof that such person was duly authorised by the principal to execute such Vakalatnama.

436. *Powers under a Vakalatnama.*—One Vakalatnama shall be sufficient to enable the person empowered to act in all proceedings of a case including execution of a decree.

437. *No fresh Vakalatnama in cross appeals and cross objection.*—In cross-appeals, an advocate, who has already filed a Vakalatnama for the appellant, shall not be required to file another Vakalatnama for his client as respondent in the cross-appeal.

Similarly Vakalatnama filed by counsel for the appellant in the appeal and by counsel for the respondent in cross objections will cover both the appeal and the cross objections

438. *Purchase of any property sold in execution of a decree by an advocate.*—Except with the special leave of the Court concerned, no Advocate shall, in his own name, or in the name or names of any other person or persons purchase any property or any share or interest in any property sold in execution of a decree or order in any suit, appeal or other proceeding in which he was, in any way, professionally engaged.

439. *Distinctive costumes for Advocates.*—The following distinctive costumes shall be worn by Advocates practising in the High Court:—

(i) By Advocate—a black gown of alpaca or other stuff made after the pattern of a King's Counsel's gown, with bands.

(ii) If an Advocate desires to wear a head-dress of any kind, he should wear a turban.

(iii) All Advocates when appearing in the Court shall wear black coats or 'achkans.'

The operation of the rule regarding the wearing of gown may be suspended in the summer season for such period as may be fixed each year by the Chief Justice.

#### Notes

The word "may" has been substituted for the previous word "Shall" through amending Notification No. 17/ S. R. O. dated 15-9-53, published in Rajasthan Rajpatra dated 10-10-53, part IV (B).

#### Section B.

#### *Qualifications and Admissions of Pleaders*

#### Notes.

Section 6 of the Legal Practitioners Act, 1879 authorises the High Court to make rules consistent with the Act, for the qualifications, admissions and certificates of persons to be pleaders of the subordinate Court. The rules in this section are for these purposes.

440. *Grades of Pleaders.*—Pleaders entitled to practise in the subordinate courts shall be of two grades, namely:—

1. Pleaders, first grade, and
2. Pleaders, second grade.

441. *No right to practise unless pleader or Mukhtar enrolled in the District court.*—No pleader is entitled to appear, plead or act in any District Court or any Court subordinate thereto, unless he is at the time enrolled in the District Court.

*Enrolment*

442. *Persons eligible to be pleaders.*—Any of the following persons may be admitted as a pleader, first grade, if he satisfies the High Court that he possesses an adequate knowledge of the Hindi language and can read and write it with ease and correctness, and that he is a fit and proper person to be admitted as a pleader, first grade:—

- (1) a person who has obtained a degree in law from any University established by law in India and is also a graduate in Arts, Science commerce or Agriculture of any such University.

*Notes.*

The words beginning with "and is also" and ending with "such university" at the end of sub-rule (i) have been newly added vide Notification No. 20/S. R. O. dated 28-4-54, published in Rajasthan Raipatra dated 17-7-54-part IV (c).

- (2) a person, who has obtained a degree in law from University of Dacca, Lahore or Sind before the 15th day of August, 1947, and has permanently settled in India;
- (3) a person, who prior to the 7th April, 1949, was duly enrolled as a legal practitioner in any of the covenanting States of Rajasthan, and who by virtue of such enrolment, was entitled to practise in all the subordinate courts of that State.

443. *Enrolment of pleaders of other High Court.*—(a) A pleader or an Advocate of any other High Court in India, as it is now or was before 15th August, 1947, may be admitted as a pleader first grade by the High Court of Rajasthan provided that:

- (i) he is of good character and conduct,
- (ii) he can read and write Hindi with ease and correctness,
- (iii) the High Court within whose jurisdiction the applicant was a Pleader has reciprocity in this respect with the High Court of Rajasthan, and
- (iv) he submits a certificate from the Registrar of such High Court to the effect that he has been permitted to suspend his practise in that Court.

(b) The condition of reciprocity provided in sub-clause (iii) of sub-rule (a) and the certificate required by clause (iv) of the sub-rule are not necessary for pleaders who were practising before the 15th August, 1947, in the area now included in Pakistan.

444. *Persons eligible to be admitted as pleaders second grade-*

(a) A pleader or Mukhtar of any High Court in any of the Coven-  
 anting States of Rajasthan as they existed on 6th April, 1949, and  
 who by virtue of his enrolment as such pleader or Mukhtar, was  
 not entitled to practise in all the subordinate courts of that State  
 but only in certain specified subordinate courts or classes of subordi-  
 nate courts, may be admitted as a pleader, second grade.

(b) The Certificate issued to a pleader, second grade, shall  
 specify the Courts or the classes of Courts in which he is entitled  
 to practise,

(c) The Court, or Courts in which a pleader, second grade,  
 shall be entitled to practise shall be the same in which he was entitl-  
 ed to practise before 7th April, 1949;

Provided that if a Court in which he was entitled to practise  
 is abolished, he shall be deemed to be entitled to practise in the  
 successor court which has jurisdiction to try the cases formerly  
 tried by the court which is so abolished.

"Provided further that if the successor Courts are located  
 at more than one place, the pleader may be permitted to practise at  
 any one of such places and may also be permitted to practise in  
 other specified court or courts at the same place equal in rank to  
 the court or courts in which he was previously entitled to practise.

*Notes*

The second proviso has been newly inserted through amending Notification  
 No. 1/S. R. O. dated 13-1-54, published in Rajasthan Rajpatra dated 6-2-54-  
 part II.

444A displaced person who is not a Law Graduate, and who  
 was a pleader or Mukhtar immediately before his displacement in  
 any area now included in Pakistan, may if recommended by the  
 District Judge of the District where he intends to practise be  
 enrolled as a pleader second grade entitled to practise in all or such  
 subordinate courts in the district as may be specified.

In making his recommendations the District Judge will  
 take into consideration (a) the educational qualifications, (b) the  
 Legal attainments, (c) the length of practice, (d) the knowledge of  
 Hindi and (e) the character and antecedents of the applicant.

*Notes.*

This rule has been newly added vide amending Notification No 8/S. R. O.  
 dated 26-5-53 published in Rajasthan Rajpatra dated 13-6-53- part II.

445. *Enrolment in the High Court.*—The mode of applying  
 to be admitted as a Pleader shall be by petition in the prescribed  
 form and bearing the requisite court-fee stamps. The petition shall  
 be presented to the District Judge of the district in which the  
 applicant desires ordinarily to practise. Such District Judge shall  
 see that all particulars are correctly filled in and shall then forward  
 the petition to the High Court.

446. *Application for enrolment in District Court.*—A Pleader to whom a certificate has been issued under section 7, Legal Practitioners Act, 1879, may apply in person by petition accompanied by the certificate, to the District Judge of the district in which the applicant desires to practise.

447. *Enrolment in District Court.*—If the certificate be in order and the District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady and is otherwise a proper person to be enrolled, he shall cause his name to be entered in a register to be kept in the following form, and shall cause to be endorsed on his certificate a memorandum certifying that the applicant has been enrolled in the Court.

The register shall be maintained in two parts, one for pleaders first grade, and the other for pleaders, second grade.

#### FORM OF REGISTER

1	2	3	4	5	
Name	Fathers name	Address	Value of stamp on Certificate	Date of enrolment	Remarks

448. *Enrolment in two districts.*—If a pleader wishes to practise in more than one district under the High Court, his application for his second or other enrolment must be forwarded to the High Court with the necessary endorsement by the District Judge of such second or other district, that in his opinion he is a suitable person for such further enrolment, provided that no fresh stamp under the second Schedule of Legal Practitioners Act will be required.

449. *Training of Pleaders before starting practice independently.*—Every pleader admitted under clause (1) or (2) of rule 442 shall, unless specially exempted by the High Court after being enrolled and before commencing to practise on his own account in any court subordinate to the High Court, furnish to the High Court a certificate in writing by a 'senior-practitioner', whose name is enrolled in a list drawn up by a District Judge and approved by the High Court or by a Practitioner of the High Court of not less than ten years standing, that he has read with such senior for six months and that he has attended regularly in Court and Chambers with his senior and has worked diligently.

450. *Choice of Senior and fee for senior.*—(a) The pupil may choose the senior with whom he desires to read, provided that no senior shall have more than four pupils at any time unless for some exceptional reason, approved by the High Court, the District Judge authorises him to have more.



(b) If the senior desires to charge a fee, it shall not exceed Rs. 150/- for the aforesaid six months tuition.

451. *Rights of trainee pleaders.*—During the period of his training under Rule 449, a pleader shall be entitled to hold the brief of his senior with his permission and to appear and plead for him but shall not be entitled to act.

452. *Certificate of training and its submission to High Court.*—The certificate of training required by Rule 449 shall be submitted to the High Court through the District Judge who will first endorse it to the effect that he has satisfied himself that the petitioner in question has undergone the six months' training in accordance with the Rules; provided that, where the highest judicial officer at a place is a Civil Judge or a Civil and Additional Sessions Judge or a Munsif, the certificate may bear the necessary endorsement by such an officer and may be submitted to the High Court through the District Judge after being duly countersigned by him.

Where the District Judge feels dissatisfied with the training undergone, he shall call for an explanation in writing from the practitioner concerned of the points concerning which he is so dissatisfied, and shall forward the explanation with his opinion thereon.

453. *Permission to practise independently.*—On receipt of the certificate mentioned in the above rule, the High Court may permit a pleader to practise independently.

454. *Change of District of practice and reenrolment after discontinuing practice.*—Any pleader who desires to be enrolled in any district other than that in which he was originally enrolled or who applies to be re-enrolled in the same district after an interval during which his name was not on the rolls, shall apply by petition to the Judge of the District Court in which he seeks enrolment or re-enrolment annexing thereto his last certificate and a satisfactory testimonial of character from the Judge of the district in which he last practised, showing that nothing is known against him either professionally or personally so as to debar him from being enrolled or re-enrolled as a pleader. Where sufficient cause is shown as to why the applicant cannot furnish the certificate and testimonial aforesaid, the Judge may accept any other evidence in proof of his having been previously enrolled and of his having a good character. If the application be in order, and the District Judge is satisfied that the applicant is not suffering from leprosy or other dangerous malady, and is otherwise a proper person to be enrolled or re-enrolled, he may be enrolled or re-enrolled accordingly; and upon every enrolment under this Rule, the District Judge shall notify the fact of such enrolment to the Registrar of the High Court.

#### RENEWAL.

455. *Petition for renewal of certificate to practise.*—Every application for renewal of a certificate shall be made on or

before 15th December by petition, stamped under clause (b), article 1, Schedule II of the Court Fees Act, 1879, of the Central Legislature as adapted to Rajasthan addressed to the Judge of the District Court in which the applicant is enrolled and ordinarily practises. The petition shall be accompanied by the expiring certificate and stamped paper of the value required for the renewed certificate, and shall be presented by the applicant in person, or if the District Judge so permits, by a legal practitioner practising in the District Court and duly authorised in that behalf. Where an applicant practises in an outlying court, he may, if the District Judge so permits, present his petition in that court to be forwarded to the District Judge for orders.

The necessary postal charges for forwarding the petition by registered post as also for the transmission of the renewed certificate by registered post shall be paid by the applicant: Provided that if a pleader is enrolled in more than one district under rule 448, he shall deposit the stamps of the Legal Practitioner Act in the district in which he was originally enrolled.

Provided further that in the case of a pleader who has been previously entered permanently as a Vakil, pleader or Mukhtar on the roll of a former High Court or Chief Court in any covenanting State, the High Court may on application issue to such pleader a certificate authorising him to practise permanently in the Courts and in the offices specified therein with effect from the 1st January, 1954 or any subsequent date and a certificate so issued shall not be required to be renewed every year.

#### Notes.

The second proviso has been newly inserted through amending Notification No. 23/S.R.O. dated 28/10/53, published in Rajasthan Rajpatra dated 28/11/53 part II.

456. *Order on application for renewal.*—Unless it appears to the District Judge that the applicant is unfit by reason of leprosy or other dangerous malady, or is otherwise an improper person to whom to grant a renewal of the certificate, a renewed certificate shall be granted to him and signed by the District Judge, and be delivered to the applicant if he attends in person, or to the legal practitioner presenting the petition under Rule 455, or through the Court forwarding his petition under Rule 455. On the renewed certificates shall be endorsed the memorandum of enrolment recorded on the expiring certificate, and the endorsements shall be authenticated by the District Judge. No certificate shall be renewed by any District Judge unless he is satisfied that the applicant at the time of the application is ordinarily practising in a Civil, Criminal or Revenue Court within the local limits of his jurisdiction.

If for any reason it appears to the District Judge that the applicant is an improper person to whom to grant a renewal of the

certificate, he shall report the matter to the High Court for orders.

457. *High Court's power of renewal when applied for after 15th December.*—Except under a special order of the High Court passed on an application to be made through the District Judge, no certificate shall be renewed to any pleader who shall not have applied on or before 15th. December in its current year for a renewal of his certificate.

458. *Forms of original and renewed certificates.*—The certificate of practice and renewed certificate shall be in the forms given in Part II of the Schedule to the Rules: and on stamp paper of the prescribed value.

459. *Return of certificates and renewals allowed.*—Each District Judge shall submit to the High Court in January of each year a return in the form below of the certificates renewed by his Court for that year; and shall at the same time submit to the High Court a list of such pleaders as have not applied for a renewal of their certificates or to whom a renewal has been refused:

No. in High Court's Register & year of admission	Name and degree, if any	Father's name	Place where practising	Value of stamp on certificate	Date of last renewal	Remarks.
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At the time when the District Judge submits such returns to the High Court, he shall cause to be forwarded a copy of each such return to each District Magistrate within his Judgeship.

A list containing the names of all pleaders whose certificates have not been renewed shall in January of each year be posted in the court house of the District Judge with an intimation that such persons are liable to penalties under section 32 of the Legal Practitioners Act, 1879 ( Act No. XVIII of 1879 ), if found practising without having renewed their certificates.

The District in which a pleader was originally enrolled should always be stated in the column of remarks when he obtains enrolment in another district and in preparing this return, the names shall be arranged in the order which they stand in the High Court's Register.

#### *Disabilities of Lawyers.*

460. *Service, Trade business not allowed to Pleadors.*—If any applicant for admission as a pleader holds any salaried appointment or carries on any trade or other business, the High Court may refuse to admit him, or pass such orders on his application as it thinks proper.

If any person who having been admitted as a pleader accepts any salaried appointment or enters into any trade or other business,

he shall give notice thereof the High Court, which may thereupon suspend such pleader from practice, or pass such orders as the said Court may think fit. He shall give the notice through the District Judge in whose Court he is enrolled.

Ordinarily no pleader can be permitted to take an active part in any trade or other business and at the same time to carry on a legal practice.

*Explanation.*—The term ‘salaried appointment’ does not include any part-time appointment relating to the teaching or other work connected with law.

461. *Place of practice.*—A pleader is authorised to practise only after enrolment, and then only in a court or office held within the territorial limits of the jurisdiction of the Court of the District Judge in which he is enrolled.

462. *Authority for withdrawing client's money.*—Pleaders shall not receive refunds or repayments of Court-fees, moneys or securities for money except when they be by their Vakalatnamas or mukhtarnamas distinctly authorised to receive the same.

N. B.—Government pleaders who do not file any Vakalatnama may, however, receive refunds or repayments when the application for refund or repayments has been signed by the Collector (or any other Officer entrusted with the conduct of a suit) and the Government Pleader.

462A. *Accounts of Receipts and Disbursements of clients money.*—It shall be the duty of every pleader to keep regular accounts of all moneys received and disbursed by him in connection with each suit, appeal or proceeding in which he is engaged as pleader. The failure to keep such accounts will be treated as a “reasonable cause” for suspension of certificate within the meaning of section 13 (f) of the legal Practitioner Act, 1879.

#### Notes

This rule has been newly added vide amending Notification No. 43/S.R.O. dated 18/10/54, published in Rajasthan Rajpatra dated 13/11/54 part IV (c).

463. *Conditions on bidding at auction sales.*—No pleader shall, at a sale in execution of a decree in a suit in which he has been professionally engaged bid for or purchase, whether in his own or in any other name, for his own benefit or for the benefit of any other person, any property sold in execution of such decree.

464. *Cancellation of the existing Rules and certificates thereunder.*—All existing rules relating to matters which are provided for in these Rules (in Section B of Chapter XXIV) are hereby cancelled, and certificates issued under the Rules so cancelled shall be deemed to have been issued under these Rules and shall remain effective till the end of the current year:

Provided that at the time of renewal of the certificates all pleaders will be classified as pleaders of the first or second grade according to these Rules on a reference to the High Court.

465. *Renewal fee on permanent certificates.*—If a certificate under the Rules cancelled as aforesaid was issued as a permanent certificate, the amount of fee paid for the permanent certificate shall be credited towards such renewal fee until the expiry of the period for which such amount should have sufficed if renewal fee at the prescribed rate were paid each year, from the date of issue of the permanent certificate:

Provided that in case the amount paid for a permanent certificate is exhausted by calculation as aforesaid on any date prior to 1st January, 1952, the renewal fee will become payable every year beginning from 1st January, 1952.

## CHAPTER XXV

### Constitution and Procedure of Bar Council.

#### *Preliminary.*

466. *Rules under section 6 of the Bar Councils Act.*—The Rules contained in this chapter are made by the High Court under sub-section (1) of Section 6 of the Indian Bar Councils Act, 1926.

467. *Definitions*—In this chapter:

- (a) 'High Court' means the High Court of Judicature for Rajasthan at Jodhpur.
- (b) 'Registrar' means the Registrar of the High Court.
- (c) 'District Judge' means a Judge presiding over a district court in the state of Rajasthan.

468. *Classification of advocate.*—(i) The Registrar shall classify the advocates entered in the roll prepared under section 8, sub-section (2) of the Indian Bar Councils Act as follows:—

- (a) those who have, for not less than ten years, been entitled as of right to practise in the High Court;
- (b) those who, other than those mentioned in clause (a), are entitled to practise in the High Court.

For the purpose of clause (a) of this sub-rule, the period during which any legal practitioner was entitled as of right to practise in the High Court of a former State integrated in Rajasthan shall be included in the period during which he was entitled as of right to practise in the High Court.

(ii) Each advocate on the list shall be assigned a number and shall have entered against his name, his permanent place of business.

(iii) The list so prepared shall be sent to the Presidents of the Bar Associations at Jodhpur and Jaipur. It shall also be sent to every District Judge for communication to the legal practitioners in his jurisdiction.

(iv) Any legal practitioner entitled to have his name entered in the list and whose name is not so entered or whose name is entered in the wrong division of the list may within such time as may be fixed by the High Court for this purpose, apply to him for correction of the list, and the Registrar on being satisfied that

the name has been wrongly omitted or entered, may cause a proper entry to be made

(v) The corrections made by the Registrar under the provisions of sub-rule (iv) shall be notified in the manner prescribed by sub-rule (iii).

469. *Calling of Nominations.*—(a) After the corrections in the list have been notified the Registrar shall notify the period fixed for the receipt of letters of nomination.

(b) The notification under sub-rule (a) shall be published in the Rajasthan Gazette on a date not less than ten days before the commencement of the period. It shall also be published in the manner in the manner prescribed by Rule 468 (iii).

(c) The period during which nominations shall be received shall be of a duration of not less than ten days (including any intervening holidays).

470. *The mode of filing nominations.*—(a) Every candidate for election as a member of the Bar Council shall be nominated by five voters by letter addressed to the Registrar, and signed by each of such voters, the signatures being attested by the presiding officer of a Civil Court under his seal.

(b) The letter shall bear the assent of the candidate nominated for election and such assent shall also be attested in the manner indicated in clause (a)

(c) The letter shall also indicate the number assigned in the electoral list and the place of business, of each of the proposers, and of the candidate,

471. *Scrutiny of nominations by the Registrar.*—(a) The nomination letter shall be delivered to the Registrar by hand or by post within the period notified under Rule 469 (a).

(b) The Registrar may submit to the Administrative Judge any nomination as to the validity of which he may have any doubt and subject to the provisions of rule 479, the decision of the Administrative Judge shall be final.

(c) In the event of a proposal being held to be invalid, the fact shall be notified forthwith to the candidate by the Registrar and the candidate may thereupon submit another proposal within the period fixed under rule 469 (a), but in default of the candidate being so notified, he shall not be entitled to submit another proposal after the time prescribed by Rule 469 (a).

472. *List of valid nominations.*—(a) As soon as may be, after the expiry of the period fixed for the receipt of nominations, a list of nominations admitted as valid shall be posted on the notice board of the High Court at Jodhpur and Jaipur and copies of the list shall also be sent to the President of the Bar Associations at Jodhpur and Jaipur.

(b) The list of candidates shall be divided into two parts, the first containing the names of candidates to whom clause (a) of Rule 468 (i) applies, and the second part containing the names of candidates to whom clause (b) of Rule 468 (i) applies.

473. *Sending of voting papers to electors.*—After the list of valid nominations has been published, the Registrar shall send to each elector by post, a copy of the voting paper, containing the list of valid nominations, and stating the time and date on or before which it must be returned in a closed cover either in person or through registered post. The date thus specified shall not be less than 14 days from the date of posting the voting paper.

474. *Marking of voting papers.*—(a) The elector shall put a cross mark (X) against the name (or names) of the person (or persons) for whom he votes and sign the voting paper.

(b) Every voter may vote for ten candidates, but he shall not be entitled to vote for more than five candidates out of those included in the second part of the list mentioned in rule 472 (b).

(c) No voter may give more than one vote to any one candidate.

475. *Custody of voting papers.*—The Registrar, or in his absence, the Deputy Registrar shall provide for the custody of voting papers, which shall be kept in closed covers unopened until the time and date fixed for the counting and scrutiny of such voting papers. Due notice of such time and date (a) shall be given by post to all candidates, (b) shall be posted on the Notice Board of the High Court at Jodhpur and at Jaipur and (c) shall also be sent to the President of the Bar Association at Jodhpur and at Jaipur.

476. *Right of certain persons to be present during counting and scrutiny of voting papers.*—The candidates, or their duly authorised representatives and the Presidents of the Bar Associations or their duly authorised representatives shall have a right to be present during the counting and scrutiny of voting papers.

477. *Scrutiny and counting of voting papers.*—The Registrar, or in his absence, the Deputy Registrar, shall open the covers containing the voting papers and scrutinise them in the presence of such of the persons mentioned in rule 476, as may be present.

The votes received by such candidate shall be recorded, and a return showing the number of votes obtained by each candidate, and the number of voting papers rejected as invalid shall be prepared.

478. *Obtaining of the highest number of votes.*—The five advocates mentioned in section 4, subsection (2) of the Indian Bar Councils Act, shall be those five who answering that description have obtained the highest number of votes. The remaining five advocates to be declared elected shall be those who have obtained the highest number of votes excluding from consideration the five above mentioned.

479. *Constitution of a Tribunal to determine validity of the election of a member.*—If any question should arise as to the validity of election of a member, the High Court shall constitute Tribunal to determine the matter.

480. *Publication of the names of the elected members.*—The Registrar shall publish in the local official gazette, as soon as may be after the election, the names of the elected members of the Bar Council and shall communicate the fact of such election to each such member.

481. *Term of a member of the Bar Council.*—A nominated or elected member of the Bar Council shall hold office for three years from the date of the first meeting of the Council after his nomination or election, provided that a member nominated or elected to fill a casual vacancy shall for the purpose of this Rule, be deemed to have been nominated or elected on the date when the person whose place he takes was nominated or elected.

482. *Death, resignation etc, of a member of the Bar Council during currency of his term.*—When a member of the Bar Council dies, resigns or becomes incapacitated before the expiration of the three years mentioned in Rule 481;

(a) the High Court shall nominate another person to be a member, if the member dying, resigning or becoming incapacitated was a member nominated under the provisions of section 4, sub-section (1) (b), of the Indian Bar Councils Act; and

(b) in the case of an elected member, the Bar Council shall elect another member, but so that not less than five of the elected members at any time are advocates whose names appear in part (a) of the list

483. *Secretary of the Bar Council.*—The Secretary of the Bar Council shall be chosen by the members at the first meeting, and until so chosen, the Registrar shall carry out the duties, if any.

484. *Two Meetings during year.*—The Bar Council shall hold not less than two meetings every year.

485. *Secretary to convene meetings.*—The Secretary shall convene all meetings of the Bar Council.

486. *Quorum.*—Seven members shall constitute a quorum for a meeting of the Bar Council.

487. *Notice of the meeting to specify object and agenda of the meeting.*—The Secretary shall in the notice convening each meeting specify the object thereof and the matter to be discussed therein.

488. *Decision of difference of opinion by voting.*—In case of difference of opinion amongst the members present, the matter on which such difference has arisen shall be decided by votes of the members present.



489. *Casting of vote.*—Where such votes are equally divided, the Chairman, or the member presiding at the meeting, shall have a casting vote.

490. *No quorum necessary at an adjourned meeting.*—If at a meeting less than seven members are present, it shall be adjourned for not less than fourteen days, and at the adjourned meeting no quorum shall be necessary.

491. *Absence in three consecutive meetings to determine membership.*—Membership of the Bar Council shall automatically determine in the case of any member absent for three consecutive meetings.

492. *Election of Chairman and Vice Chairman.*—The Bar Council shall, at its first meeting, proceed to elect a Chairman and a Vice-Chairman by ballot.

493. *Who to preside at meeting.*—The Chairman shall preside at each meeting, and in his absence, the Vice-Chairman shall preside, and in his absence of both, the members present may elect one of themselves to preside at a meeting.

494. *Term of office of Chairman and Vice Chairman.*—The term of office of the Chairman and Vice-Chairman shall be the same as their terms of office as members.

## CHAPTER XXVI.

### Advocates Clerks.

495. *Registration.*—No Advocate's clerk shall be allowed to do any work in the High Court unless he has been registered under these Rules. Not more than two clerks shall be registered at one time for each Advocate.

496. *Qualifications.*—No person shall be registered unless he—

- (a) has passed the Middle Examination or an examination considered to be equivalent thereto;
- (b) has worked for one year in the office of an Advocate under a registered clerk;
- (c) has obtained:—
- (d) a certificate from the registered clerk under whom he has worked countersigned by the Advocate Concerned that he has a working knowledge of the Rules and practice of the Court and can maintain accounts; and
- (ii) a certificate of honesty and good character from the Advocate in whose office he has worked:

Provided that a person who was registered as an Advocate's Clerk before the commencement of these Rules and whose name was not removed by order of the Registrar may, notwithstanding the fact that he does not possess the qualifications mentioned in clause (a), (b) and (c) (i) above, be registered as an Advocate's clerk.

Provided further that a person who, though not formally registered as an Advocate's Clerk before the commencement of these rules, was continuously working as such from 29th August, 1949 to 30th September, 1952 may notwithstanding the fact that he does not possess the qualifications mentioned in clause (a), (b) and (c) (i) above, be registered as an Advocate's clerk, on his producing satisfactory evidence of his having worked as an Advocate's Clerk continuously from 29th August, 1949 to 30th September, 1952.

*Notes.*

This second proviso has been newly added through amending Notification No. 21/S.R.O. dated 19/10/53, published in Rajasthan Rajpatra dated 31/10/53 part II.

497. *Disqualifications.*—A person suffering from any contagious or infectious disease or who has been convicted of any offence involving moral turpitude or is an undischarged insolvent or has ever been declared a tout shall not be registered as an Advocate's clerk.

498. *Application for registration.*—An application for the registration of a clerk shall be made by an Advocate by letter addressed to the Deputy Registrar in the following form, namely—

I beg to request that (name).....  
son of ..... , aged .....  
resident of ..... may be registered as my  
Clerk.

I have made due enquiries with regard to the character and qualification of the candidate and certify that in my opinion he is a fit and proper person to be registered as an Advocate's clerk under the Rules contained in Chapter XXVI of Rules of Court, 1952.

499. *Acts which a registered Clerk may perform.*—A registered clerk shall not make any motion or advance an argument in Court. He may act in matters of a routine nature which do not require the personal attendance of the Advocate and may do the following acts, namely—

- (1) Receiving notice on behalf of his master;
- (2) taking back an appeal or application filed before the Registrar, if found defective or returned by him for presentation in Court;
- (3) presenting to the Registrar or the Deputy Registrar an application signed by his master for—
  - (a) copy of a document;
  - (b) inspection of a record;
  - (c) return of a document;
  - (d) refund of a surplus balance;
  - (e) translation and printing; or
  - (f) transliteration or translation of a document or the verification of such transliteration or translation;

- (4) taking notes from the deficiency report of the Stamp Reporter and filing the necessary stamps;
- (5) depositing money and paying court-fees;
- (6) receiving paper-book, certified copies; etc.
- (7) filing Vakalatnama or retainer's slip or certificate of fee; or
- (8) identifying persons personally known to him inspecting record or swearing affidavit.

500. *Cancellation of registration.*—The Registrar may cancel the registration of any Clerk—

- (a) if he has been convicted of any criminal offence involving moral turpitude or implying a defect of character; or
- (b) if he is guilty of fraudulent or grossly improper conduct in the discharge of his professional duties; or
- (c) if he has been declared a tout under the provisions of the Legal practitioners Act, 1879; or
- (d) if he has contracted any contagious or infectious disease; or
- (e) for any other sufficient cause:

Provided that where the registration has been cancelled under clause (d), the Registrar may register his name again on being satisfied that he has been cured of his disease.

The order passed by the Registrar under this Rule shall be final.

## PART VII.

### Special Provisions

## CHAPTER XXVII.

### INCOME-TAX RULES.

#### *Notes*

The rules in this Chapter have been framed for regulating the proceedings before the High Court arising under section 66 of the Indian Income-Tax Act, 1922. Section 66 of the Act reads as under :—

(1) Within sixty days of the date upon which he is served with notice of a order under sub-section (4) of section 33, the assessee or the Commissioner may, by application in the prescribed form, accompanied where application is made by the assessee by a fee of one hundred rupees, require the Appellate Tribunal to refer to High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court.

Provided that, if, in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he may receive notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of the refusal, apply to the High Court, and

the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

(3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within two months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court\*\*\* the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to [the Supreme Court], makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to [the Supreme Court].

1(7A) Section 5 of the Indian Limitation Act, 1908 (9 of 1908), shall apply to an application to the High Court by an assessee [under subsection (2) or subsection (3) ].

[(8) For the purposes of this section, the 'High Court' means—

- (a) in relation to any State, the High Court for the State ;
- (b) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab ;
- (c) in relation to the Union territories of Manipur and Tripura, the High Court of Assam ;
- (d) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta ; and
- (e) in relation to the Union territory of the Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala.

501. *Title of application under Section 66 (2) or (3) of the Indian Income-Tax Act, 1922.*—An application under sub-section (2) or (3) of section 66 of the Indian Income-Tax Act, 1922 (hereinafter referred to in this Chapter as the Act) shall be entitled:

In the High Court of Judicature for Rajasthan at Jodhpur  
Income-Tax Case No.                      of

Under Sub section (2) of section 66 of the Indian Income-Tax  
Sub-section (3)  
 Act, 1922.

.....Applicant.

Versus

.....Opposite Party.

502. *Array of parties.*—In an application presented on behalf of the assessee the opposite party shall be the Commissioner of Income-tax and in an application presented on behalf of the Commissioner of Income-Tax, the assessee.

503. *Application under Section 66 (2) of the Indian Income-Tax Act, 1922.*—(1) An application under sub-section (2) of section 66 of the Act shall state in precise language the question of law upon which the Appellate Tribunal is required to make a reference to the Court and contain a concise statement of the material facts out of which it arises. The application shall be accompanied by copies of (a) the order of the Appellate Tribunal refusing to state the case, (b) the order of the Appellate Tribunal under sub-section (4) of section 33 of the Act, (c) the order of the Appellate Assistant Commissioner and (d) the order of the Income-Tax Officer.

*Application under section 66 (3) of the Act.*—(2) An application under sub-section (3) of section 66 of the Act shall be accompanied by a copy of the order of the Appellate Tribunal rejecting the application made under sub-section (1) on the ground that it is time-barred.

*Affidavit.*—(3) An application under sub-Rule (1) or (2) shall, where the circumstances so require, be also accompanied by an affidavit.

504. *Presentation of application.*—The application shall be accompanied by two copies thereof as well as the affidavit, if any, filed under Rule 503 (3) and shall be presented before the Registrar. The application shall be numbered and registered as a Miscellaneous case.

505. *Court's power to dispense with any copy or to allow time for filing it.*—The Registrar may for sufficient cause shown either dispense with any copy or copies mentioned in Rule 503 or allow any such copy or copies to be filed within such further time as he may deem fit to allow and may extend such time.

506. *Application to be heard by a Division Bench specially constituted.*—Unless otherwise ordered by the Chief Justice, the Registrar shall direct that the application be laid before a Division Bench. The Registrar shall at the same time, if so directed by the Chief Justice, cause notice of the application to be served upon the opposite party calling upon it to appear and show cause why the application should not be granted.

507. *Issue of notice.*—The Bench may, in a case in which notice has not already been issued under Rule 506 after giving an opportunity to the applicant to be heard either reject the application

or direct that notice thereof be served upon the opposite party calling upon it to appear and show cause why the application should not be granted.

508. *Copies of application and affidavit to accompany notice.*—The notice under Rule 506 or 507 shall be accompanied by a copy of the application as well as the affidavit, if any, filed under Rule 503 (3).

509. *Reply.*—Within thirty days of the service of notice under Rule 506 or 507 the opposite party may submit a reply to the application accompanied, if necessary, by an affidavit. The reply shall be accompanied by two copies thereof as well as the affidavit, if any. Copies of the reply and the affidavit, if any, shall be served upon the applicant by the Registrar.

510. *Advocates to accept service of notice.*—Advocates for the parties shall be bound to accept service on behalf of the party represented by them of any notice issued by the Court or the Appellate Tribunal, as the case may be, until the case has been finally disposed of.

Any change of Advocates appearing for a party shall immediately be notified by it to the Court, the Appellate Tribunal and the opposite party.

511. *Orders on the application.*—On the date fixed for the hearing of the application, the Court after hearing the parties, if they appear, either pass an order dismissing it or, in the case of an application under sub-section (2) of section 66 of the Act, require the Appellate Tribunal to state the case and to refer it to the Court and, in the case of an application under sub-section (3), require the Appellate Tribunal to treat the application presented before it as made within the time allowed under sub-section (1).

512. *Form of reference by the Appellate Tribunal.*—The statement of a case referred to the Court by the Appellate Tribunal shall, so far as may be, be divided into paragraphs numbered consecutively and shall indicate the precise question of law arising in the case and concisely state such facts as may be necessary to enable the Court to decide it. It shall also contain references to all such documents as may be necessary to enable the Court to decide the question and shall be accompanied by copies of such documents or relevant extracts therefrom.

The statement may include more than one question of law arising in a case.

513. *Notice of reference by the Appellate Tribunal.*—On receipt of the statement of a case referred to the Court, by the Appellate Tribunal under sub-section (1) or (2) of section 66 of the Act, notice thereof shall be given to the parties and the Registrar shall call upon the party at whose instance the reference has been made to prepare or cause to be prepared a paper book of the case within such time as the Registrar may allow. The Registrar may for sufficient cause shown extend such time.

514. *Paper-book*.—(1) The paper-book shall consist of a fly sheet and a general index and contain copies of the following papers, namely—

- (i) Application and the affidavit accompanying it if, any.
- (ii) Reply to the application and the affidavit accompanying it, if any.
- (iii) Any orders passed by the Court under sub-section (2), (3) or (4) of section 66 of the Act.
- (iv) Statement of the case and copies of documents or extract therefrom, if any forming part of the case.
- (v) Any objection by a party to the statement of the case.
- (vi) Orders of the Appellate Tribunal under sub-section (4) of section 33 of the Act.
- (vii) Order of the Appellate Assistant Commissioner.
- (viii) Order of the Income-tax Officer.

(2) Where the case is referred back to the Appellate Tribunal under sub-section (4) of section 66 of the Act, a copy of the statement of the case as added to or altered by the said Tribunal shall also be included in the paper-book.

(3) If any party desires that a copy of any other document be included in the Paper-book on the ground that it is necessary for the determination of the question of law referred to the Court, it shall make an application in writing to the Registrar fully explaining the relevancy of such document. The Registrar shall give notice of the application to the opposite party and may after hearing any objection that may be filed by such party, either reject the application or direct that a copy of such document be included in the paper-book.

(4) The paper-book shall, unless otherwise ordered, be a type-written one and such number of copies thereof shall be prepared as the Registrar may direct.

515. *Cost of preparing paper-book*.—The Registrar shall determine the cost of preparing the paper-book and such cost shall be cost in the cause.

516 *Preparation of paper-book under the direction and supervision of the Registrar*.—Where the Registrar directs that the paper-book be prepared under his direction or supervision, the preparation of such paper-book shall not be undertaken unless the party concerned furnishes evidence to the Registrar of his having deposited the cost of preparing it as determined by the Registrar with the Cashier.

517. *Hearing of case after preparation of paper-book*.—When the paper-book has been prepared, the Registrar shall cause copies thereof to be supplied to the parties and thereafter the case shall be listed for hearing before the Bench concerned.

518. *Copies of orders passed by the Court to be sent to the Appellate Tribunal*.—Copies of any orders passed by the Court

under sub section (2), (3) or (4) or any judgment delivered by it under sub section (5) of section 66 of the Act shall be sent forthwith to the Registrar of the Appellate Tribunal under the seal of the Court and the signature of the Registrar

#### Notes.

The words "together with two uncertified copies of the same" as previously occurred after the words "the Registrar" have been deleted vide amending Notification No 13/S. R. O. dated 23-5-55, published in Rajasthan Rajpatra dated 26-11-55 part IV (C).

519. *Costs.*—Costs taxable as Advocates' fees shall be determined by the Court having regard to the provisions of Rule 276 of Chapter XVI of Part II of these Rules.

520. *Application of Rules to similar proceedings under other Acts.*—The Rules contained in this Chapter shall so far as may be and with necessary modifications and adaptations also apply to proceedings of a similar nature under any other Act:

Provided that where a reference may under the law be made by the Court or authority making the reference without an application by a party, the paper-book shall be prepared under the direction and supervision of the Registrar and Rules 515 and 516 shall not apply.

## CHAPTER XXVIII.

### Company Rules.

#### Section A.

### GENERAL.

521. *Short title and commencement.*—The Rules contained in this Chapter may be cited as the Company Rules.

#### Notes

These Company Rules have been framed in exercise of the powers conferred by section 246 of the Indian Companies Act, 1913. Section 246 of the said Act read as under:—

(1) The High Court may, from time to time, make rules consistent with this Act and with the Code of Civil Procedure, 1908, concerning the mode of proceedings to be had for winding up a company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-division of the shares of a company.

(2) Without prejudice to the generality of the foregoing power, the High Court may by such rules enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the matters following, to be exercised or performed by the official liquidator, and subject to the control of the Court, that is to say, the powers and duties of the Court in respect of—

- (a) holding and conducting meetings to ascertain the wishes of creditors and contributories;
- (b) settling lists of contributories and rectifying the register of members when required, and collecting and applying the assets;
- (c) requiring delivery of property or documents to the liquidator;
- (d) making calls;
- (e) fixing a time within which debts and claims must be proved;



Provided that the official liquidator shall not, without the special leave of the Court, rectify the register of members. and shall not make any call without the special leave of the Court.

After the Promulgation of the above rules, the Indian Companies Act, 1913 has been repealed by the Indian Companies Act 1956 vide its section 644. The analogous rule making power as Contained in Section 246 of the old Act is now provided in section 643 of the new Act. The new Act authorises the Supreme Court, instead of High Court, to frame the requisite rules on the Subject. The enabling Section 643 of the new Act reads as under:—

(1) The Supreme Court, after consulting the High Courts,—

(a) shall make rules providing for all matters relating to the winding up of companies which, by this Act, are to be prescribed and may make rule providing for all such matters as may be prescribed, except those reserved to the Central Government by sub-section (5) of section 503, Sub-section (1) of section 549 and sub-section (3) of section 550; and

(b) may make rules consistent with the Code of Civil Procedure, 1908 (V of 1908)—

(i) as to the mode of proceedings to be had for winding up a company in High Courts and in Courts subordinate thereto;

(ii) for the voluntary winding up of companies, whether by members or by creditors;

(iii) for the holding of meetings of creditors and members in connection with proceedings under section 391;

(iv) for giving effect to the provisions of this Act as to the reduction of the capital and the sub-division of the shares of a company; and

(v) generally for all applications to be made to the Court under the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power the Supreme Court may, by such rules, enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the following matters, that is to say—

(a) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(b) the settling of list of contributories and the rectifying of the register of members where required, and collecting and applying the assets;

(c) the payment, delivery, conveyance, surrender or transfer of money, property books or papers to the liquidator;

(d) the making of calls; and

(e) the fixing of a time within which debts and claims shall be proved; to be exercised or performed by the Official Liquidator or any other liquidator as an officer of the Court, and subject to the control of the Court;

Provided that the liquidator shall not, without the special leave of the Court, rectify the register of members or make any call.

(3) Until rules are made by the Supreme Court as aforesaid all rules made by any High Court on the matters referred to in this section and in force at the commencement of this Act shall continue to be in force in so far as they are not inconsistent with the provisions of this Act in that High Court and in courts subordinate thereto.

These rules framed by the High Court under the old Act Continue in force until rules as required under Section 643 are made by the Supreme Court.

These rules prescribe the procedure regarding proceedings referred to in rule 526.

522. *Definitions.*—In this Chapter, unless the context or subject matter otherwise requires,—

- (i) 'The Act' means the Indian Companies Act, 1913;
- (ii) 'Company' means a company in respect of which proceedings have been instituted under the Act;
- (iii) 'Court' means the Court having jurisdiction under the Act;
- (iv) 'Creditor' includes a corporation and a firm of creditors in partnership;
- (v) 'Judge' means in the High Court, the Judge for the time being exercising the Original Jurisdiction of the Court in Company matters and in a District Court, the Judge of such Court;
- (vi) 'Registrar' for the purposes of Rule 690 means the Registrar of the High Court or one of the officers of the Court mentioned in section 196 (9) of the Act, and in a District Court, the District Judge;
- (vii) 'Sealed' means sealed with the seal of the Court.

523. *General headings and forms*—(1) The following shall be used as general headings in all cases under the Act or the Rules contained in this Chapter:—

- I. For proceedings before the Court:  
In the High Court of Judicature for Rajasthan.  
(or in the District Court of )  
In the matter of the Indian Companies Act, 1913,  
and of Ltd.
- II. For all advertisements, notices and other proceedings not before the Court:  
In the matter of the Indian Companies Act, 1913,  
and of Ltd.
- III. Where required, the words 'and reduced' shall be added to the description of the company.

(2) The forms set forth in Part III of Appendix A to these Rules shall, with such variations as the circumstances of each case may require, be used for the respective purposes mentioned in the Rules and the Schedule.

(3) (i) The first proceeding in every matter under the Act shall have a distinctive number assigned to it, and shall be designated as "Company Case No. of 19 " All proceedings in any matter subsequent to the first proceeding shall bear the same number as the first proceeding.

(ii) Any application arising out of a proceeding under the Act shall have a distinct number assigned to it and shall be designated as

"Application No. of 19 "  
arising out of  
"Company Case No. of 19 "

524. *General power of the Judge.*—Notwithstanding anything contained in this chapter, the Judge before whom proceedings are taken may enlarge or abridge the time for doing any act or taking any proceedings under this chapter.

525. *Presentation iec. of petitions etc.*—(1) In the High Court all petitions shall be presented and applications made, in the first instance, to the Registrar. Proceeding shall be taken under the direction of the Judge, unless the Registrar is empowered to dispose of the matter, in which case they shall be taken under the direction of the Registrar.

(2) In a District Court having jurisdiction under the Act, all petitions shall be presented, applications made to, and proceedings taken under the direction of, the Judge of the Court, and the powers conferred upon the Registrar under this chapter shall be exercised by the Judge of the Court.

525. *Affidavit verifying petition.*—Every petition presented to the Court under any of the following sections of the Act, namely, sections 12, 55, 56, 66A, 105A, 120, 153, 166, 221, 247, 267 or 281 (2), shall be verified by an affidavit made by the petitioner, or one of the petitioners, if more than one or, in case the petition is presented by a corporation, by some director, secretary or other principal officer thereof. Such affidavit shall be sufficient *prima facie* evidence of the statements in the petition:

Provided that the Judge may, for sufficient cause shown, grant leave to any other person duly authorised by the petitioner to make and file the affidavit.

#### Notes

The petitions referred to in this rule relate to the following matters:—

- Section. 12.— Petition for Confirmation of alteration of memorandum.
- Section. 55 & 56.— Petition for Confirmation of Company's resolution for reduction of Share Capital.
- Section. 66 A.— Petition by the holders of Special Classes of Shares for having the variation, by the Company of their rights, Cancelled.
- Section. 105 A.— Petition for Sanctioning of the issue of the Shares at a discount.
- Section. 120.— Petition for rectification of registers of mortgages.
- Section. 153.— Petition for Sanctioning the Compromise with Creditors and members of the Company.
- Section. 166.— Petition for winding up of Company.
- Section. 221 & 222.— Petition for Supervising the voluntary winding up of a Company and the Continuance thereof.
- Section. 247.— Petition regarding striking defunct Company off register.
- Section. 267.— Petition for substituting the memorandum and Articles for deed of Settlement.
- Section. 281. (2).— Petition for granting relief in certain cases of negligence, default, breach of duty or breach of trust.

The Corresponding sections of the new Act for the aforesaid Sections of the old Act as above are reproduced below:—

- Section. 17.— Petition for Confirmation of alteration of memorandum.
- Section. 101&102.— Petition for Confirmation of Company's resolution for reduction of Share Capital.
- Section. 106.— Petition by the holders of Special Classes of Shares for having the variation by the Company of their rights, Cancelled.

*Section. 79. A*—Petition for Sanctioning of the issue of the Shares at a discount.

*Section. 141.*— Petition for rectification of registers of mortgages.

*Section. 391.*— Petition for Sanctioning the Compromise with Creditors and members of the Company.

*Section. 439* — Petition for winding up of Company.

*Section. 522&523*—Petition for Supervising the voluntary winding up of a Company and the Continuance thereof.

*Section. 560* — Petition regarding striking defunct Company off register.

*Section. 579.*— Petition for substituting the memorandum and Articles for deed of Settlement.

*Section. 633.* — Petition for granting relief in certain cases of negligence, default, breach of duty or breach of trust.

527. *Enclosures to petitions.*— Unless dispensed with by the Judge, every petition mentioned in column 1 of the schedule to this chapter shall be accompanied by the documents set opposite thereto in column 2 of the said Schedule.

528 *Form of advertisement*—Where an advertisement is required for any purpose, it shall, unless otherwise prescribed by the Rules in this Chapter or directed by the Judge, be inserted once in the official Gazette, and once in two daily newspapers, circulating in the locality where the company has its registered office or a principal place of business or assets and liabilities, as the case may be.

#### *Section B*

### REDUCTION OF CAPITAL.

529. *Mode of application.* An application under section 56 of the Act for an order confirming the reduction of the share capital of a company shall be made by petition. Such petition shall be in the prescribed form.

530 *Application to dispense with "and reduced."*—An application under section 57 of the Act for an order dispensing with the addition of the words "and reduced" may be made *ex parte* at or after the presentation of a petition; provided that the Judge may direct notice to be given of such application or adjourn the consideration thereof as he thinks fit.

531. Where the creditors of a company are not entitled under the provisions of section 58 of the Act to object to the proposed reduction, it shall not be necessary to obtain the certificate mentioned in Rule 544 hereafter; but on the presentation of the petition, the Judge shall fix a day for the hearing thereof and shall give directions as to the advertisements to be published of the presentation of the petition, so that the first or only insertion of such notice shall be made not less than fourteen days before the date fixed for the hearing. Such notice shall be given in the prescribed form.

532. *Procedure where creditors are entitled to object.*—Where the creditors are entitled to object to the proposed reduction, the petition shall not come on for hearing until after the expiration of twenty-one clear days from the filing of the certificate mentioned in Rule 544 hereafter.

533. *Proceedings after petition presented.*—When any such petition as is mentioned in Rule 532 above has been presented, application may be made *ex parte* for directions as to the proceedings to be taken for settling the list of creditors entitled to object to the proposed reduction and the Judge may thereupon fix the date with reference to which the list of such creditors is to be made out, pursuant to section 58, sub-section (2) of the Act; and may, either at the same time or after wards, as he may think fit, give such directions as are mentioned in the two following Rules. The order upon such application shall be in the prescribed form.

534. *Advertisement of petition.*—Notice of the presentation of the petition shall be published at such times and in such newspapers as the judge may direct, so that the first insertion of such notice be made not less than one calendar month before the date fixed under Rule 533. Such notice shall be in the prescribed form.

535. *Affidavit as to creditors.*—The company shall, within such time as the Judge may direct, file in Court an affidavit made by some officer or officers of the company competent to make the same, verifying a list containing the names and addresses of the creditors of the company at the date fixed under Rule 533, and the nature and amount of the debts due to them, respectively, or in case of any debt payable on a contingency or not ascertained or any claim admissible to proof in a winding up of the company, the value, so far as can be justly estimated, of such debt or claim.

536. *Form of affidavit.*—The person making such affidavit shall state therein on his behalf that such list is correct, and that there was not at the date so fixed as aforesaid any debt or claim which, if that date was the commencement of the winding-up of the company, would be admissible in proof against the company except the debts set forth in such list, and shall state his means of knowledge of the matters deposed to in such affidavit. Such affidavit shall be in the prescribed form.

537. *Inspection of list of creditors.*—Copies of such list, containing the names and addresses of the creditors, and the total amount due to them, but omitting the amounts due to them respectively, or (as the Judge may think fit) complete copies of such list, shall be kept at the registered office of the company and at the offices of their advocates and agents, if any, and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same on payment of the sum of one rupee.

538. *Notice to creditors.*—The company shall, within seven days after the filing of such affidavit, or such further time as the Judge may allow, send to each creditor whose name is entered in the said list a notice stating the amount of the proposed reduction of capital, and the amount of the debt for which such creditor is entered in the said list, and the time within which, if

he claims to be a creditor for a larger amount, he must send in his name and address, and the particulars of his debt or claim, and the name and address of his advocate, if any, to the company or its advocate, if any; and such notice shall be sent by post in a registered cover addressed to each creditor, at his last known address or place of abode, and shall be in the prescribed form:

Provided that if any of the creditors of the company are residing out of India, or if the names of any of the creditors are not known to the company, or if for any special reason the Judge thinks it expedient, the Judge may direct notice to be given to any creditor or creditors by advertisement or otherwise as he may deem fit.

539. *Advertisement as to list of creditors.*—Notice of the list of creditors shall, after the filing of the affidavit mentioned in Rules 535 and 536, be published at such times and in such newspapers as the Judge may direct. Every such notice shall state the amount of the proposed reduction of capital, and the places where the afore-said list of creditors may be inspected and the time within which creditors of the company whose names are not entered on the said list and who are desirous of being entered therein, must send in their names and addresses, and the particulars of their debts or claims, and the names and addresses of their advocates, if any, to the company or its advocate, if any. Such notice shall be in the prescribed form.

540. *Creditor for larger amount to notify company.*—A creditor entered in the said list who claim to be a creditor for a larger amount than that stated therein shall send his name and address and particulars of his debt or claim, and the name and address of his advocate, if any, to the advocate of the company or to the company, within the time stated in such notice, being not more than fourteen days from the date of the notice or such further time as the Judge may allow.

541. *Affidavit as to result of Rules 538 and 539.*—The company shall, within such time as the Judge may direct, file in Court an affidavit made by the persons to whom the particulars of debts or claims are, by the notices mentioned in Rules 538 and 539 above, required to be presented, stating the result of each of the aforementioned notices, respectively and verifying a list containing the names and addresses of the persons, if any, who have sent in the particulars of their debts or claims in pursuance of such notices and the amounts of such debts or claims, and a competent officer of the company shall join in such affidavit proving the despatch and publication of such notices, and shall in such list distinguish which of such debts and claims, if any, are wholly or as to any and what part thereof, admitted by the company, and which, if any of such debts and claims are wholly, or as to any and what part thereof, disputed by the company. Such affidavit shall be in the prescribed form.

542. *Proceedings where claim not admitted.*—If any debt or claim, the particulars of which are so sent in, shall not be admitted by the company at its full amount, then in every such case, unless the company is willing to set apart and appropriate in such manner as the Judge shall direct, the full amount of such debt or claim, the company shall send to the creditor a notice that he is required to come and prove such debt or claim, or such part thereof as is not admitted by the company, by a day to be therein named being not less than fourteen clear days after such notice, and being the day appointed by the Judge for adjudicating upon such debts and claims. Such notice shall be sent in the manner mentioned in Rule 538 above and shall be in the prescribed form. The affidavit of the creditor in proof of his debt or claim shall be in the prescribed form.

543. *Cost of proof.*—Such creditors as prove their debts or claims in pursuance of the notice issued under Rule 542 shall be allowed their costs of proof against the company and such costs shall be added to their debts. The said creditors may be answerable for costs in the event of their failing to prove their debts or claims.

544. *Certificate as to creditors.*—The result of the settlement of the list of creditors shall be stated in a certificate which shall be prepared by the advocate of the company and signed by the Judge. Such certificate shall state what debts or claims, if any, have been disallowed, the debts or claims, if any, the amount of which allowed, the debts or claims, if any, the amount of which has been fixed by enquiry under section 59 of the Act and these Rules and the debts and claims, if any, which are admitted by the company and shall show which of the creditors have consented to the proposed reduction and the total amount due to them and which of the debts or claims, if any, the company is willing to appropriate: it shall not be necessary to show in the certificate the names of any creditors who are not entitled to be entered in the list or show the several amounts of the debts on claims of the persons who have consented to the proposed reduction.

The costs of the appearance of a creditor shall be in the discretion of the Judge.

545. *Evidence of consent of creditors.*—The consent of any creditor, whether in respect of a debt due or presently due or a debt payable on a contingency or not ascertained or a claim admissible to proof in a winding up of the company may be evidenced in any manner which the Judge shall think reasonably sufficient having regard to the amount of the debt or claim and all the circumstances of the case.

546. *Petition to come on for hearing.*—After the expiration of eight clear days from the filing of the certificate mentioned in Rule 544, the petition shall be set down for hearing in the ordinary course upon a request in writing addressed to the Registrar by the

petitioner or his Advocate to have the petition set down for hearing.

547. *Advertisement of hearing.*—Before the hearing of the petition, notices stating the day on which the same is appointed to be heard shall be published at such times and in such newspapers as the Registrar shall direct. Such notices shall be in the prescribed Form.

548. *Who may appear.*—Any creditor settled on the said list whose debt or claim has not, before the hearing of the petition, been discharged or determined or been secured in manner provided by section 59 of the Act, and who has not before the hearing consented to the proposed reduction of capital may appear at the hearing of the petition and oppose the application. A creditor intending so to appear shall give two day's notice in writing of such intention to the Advocate of the company and in default of such notice shall not without the leave of the Judge, be entitled to appear.

549. *Cost of appearance.*—When a creditor who appears at the hearing under Rule 548 is a creditor the full amount of whose debt or claim is not admitted by company and the validity of whose debt or claim has not been inquired into and adjudicated upon under section 59 of the Act, the costs of and occasioned by his appearance shall be dealt with in such manner as to the Court shall seem just; but in all other cases a creditor appearing under the last preceding Rule shall be entitled to the costs of such appearance, unless the Court shall be of opinion that in the circumstances of the particular case his costs ought not to be allowed.

550. *Directions at hearing*—When the petition comes on for hearing, the Judge may, if he thinks fit, give such directions as may seem proper in order to secure, in manner provided by section 59 of the Act, the payment of the debts or claims of any creditors who do not consent to the proposed reduction; and the further hearing of the petition may be adjourned for the purpose of carrying any such directions into effect.

551. *Order confirming reduction.*—Where the Judge makes an order, confirming a reduction, such order shall give directions in what manner and in what newspapers, notice of the registration of the order and of such minutes is to be published, in accordance with the provisions of section 61 (3) of the Act; and, unless the judge shall have dispensed with the further use thereof, such order shall fix the date until which the words 'and reduced' are to be deemed part of the name of the company in accordance with provisions of section 57 of the Act.

552. *Publication of reasons for reduction etc.*—If, under the provisions of section 65 of the Act, the Judge shall think fit to require the company to publish the reasons for the reduction of its capital or the causes which led to such reduction, or any other information with regard thereto, the same shall be published in such newspapers as the Judge may direct.



*Section C.*

## WINDING UP PETITION.

553. *Form of petition.*—Every petition for the winding up of a company by the Court or subject to the supervision of Court shall be in either of the prescribed forms.

554. *Affidavit verifying petition.*—Such petition shall be verified by an affidavit to be made by the petitioner or by one of the petitioners if more than one, or if the petition is presented by a corporation, by a Director, Secretary or other principal officer thereof:

Provided that if the petitioner is by reason of absence or for other good cause unable to verify such petition, the same may be verified by any person duly authorised by him in that behalf or deemed by the Court competent to verify the same. Such affidavit shall be in the prescribed Form.

555. *Directions.*—Upon the admission of the petition, the Judge shall fix a date for the hearing thereof and give direction as to the advertisements to be published and as to the persons on whom copies are to be served.

556. *Advertisement of petition.*—(1) The petition shall be advertised twenty-one clear days before the date fixed for the hearing thereof once in the official Gazette and once at least in two newspapers one which shall be a daily newspaper in Hindi circulating in the locality where the company has its registered office or a principal place of business or assets and liabilities, as the case may be; and in the case of a petition to a District Court empowered under section 3 (1) of the Act, also by proclamation affixed upon a conspicuous part of the Court house, unless the Court otherwise directs.

(2) The advertisement shall state the day on which the petition was presented, and name and address of the petitioner and of his Advocate, if any, and shall be in the prescribed form.

(3) The petitioner or his Advocate shall, not less than three days before the date fixed for the hearing, make and file an affidavit that the directions as to advertisements have been observed. In default of compliance with the directions as to advertisements, the appointment for the hearing of the petition shall be cancelled and the petition removed from the file. The Judge, if satisfied as to the reasons for such default, shall fix a fresh date for the hearing of the petition and it shall thereupon be advertised in accordance with this Rule.

557. *Service of petition.*—(1) Every petition for the winding-up of a company, unless presented by the company, shall be served at the registered office of the company, or if there is no registered office, then at the principal or last known principal place of business of the company if any such can be found, by leaving a copy thereof and a copy of the order made under Rule 556 with an officer, servant or member of the company there or in case no offi-

cer, servant or member can be found at such office, then the service shall be effected by registered post or in such other manner as the Judge may direct.

(2) If the company is at the date of the admission of the petition being wound up voluntarily, the petition shall also be served upon the liquidator, if any, appointed for the purpose of winding up the affairs of the company by leaving a copy of the petition and a copy of the order made under Rule 555 with him, or by sending copies to him by registered post or in such other manner as the Judge may direct.

(3) The due service of the petition shall be verified by affidavit in one of the prescribed forms.

558. *Copies of petition to be supplied.*—Every contributory or creditor of the company shall be entitled to be furnished by the petitioner or his Advocate, if any, with a copy of the petition, and of the affidavit in support thereof, within twenty-four hours after requiring the same, on payment at the rate of eight annas per folio of 90 words for such copy.

### HEARING OF PETITION.

559. *Notice of intention to appear at hearing.*—A person who intends to appear at the hearing of the petition shall leave with or send by registered post to, the petitioner, or his advocate, notice of such intention signed by him or by his Advocate. Such notice shall be served or if sent by registered post, shall be posted in time to reach the addressee not later than two clear days before the day appointed for the hearing of the petition. No person who has failed to comply with this Rule shall be allowed to appear at the hearing of the petition without the leave of the Judge. Such notice shall be in the prescribed form.

560. *Affidavits.*—An affidavit intended to be used in opposition to or in support of the petition shall be filed not less than seven days before the date fixed for the hearing thereof and notice of the filing thereof shall be given to the petitioner or his Advocate on the day on which the affidavit is filed. If any person fails to comply with this Rule, the affidavit, unless the Judge otherwise directs, shall not be used at the hearing of the petition.

561. *Affidavit in reply.*—An affidavit intended to be used in reply to an affidavit filed in opposition to the petition or in support of the petition shall be filed not less than three days before the date fixed for the hearing of the petition. Notice of such filing shall be given forthwith to the person by whom the affidavit in opposition was filed or to his Advocate.

562. *Substitution of contor or contributory for withdrawing petition.*—When the petitioner applies for leave to withdraw his petition or asks that it be dismissed or that the hearing thereof be adjourned or fails to appear in support thereof or if appearing does not apply for an order in terms thereof, or if for any other suffi-

cient reason the Judge shall think fit so to do, the Judge may, upon such terms as he thinks just, substitute as petitioner any creditor or contributory who in his opinion would have a right to present a petition and is desirous of prosecuting the petition already admitted.

563. *Petition not to be withdrawn before date fixed for hearing.*—An application for leave to withdraw a petition for winding-up which has been advertised in accordance with the provisions of Rule 556 shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

564. *Substituted petition.*—Where the Judge allows a creditor or a contributory to be substituted as petitioner in an application for the winding up of the company under Rule 562, he shall adjourn the hearing of the petition to a date to be fixed by him. Such creditor or contributory shall, within seven days from the making of the order, file a clean copy of the petition with such amendments as he desires to incorporate therein, and shall also file an affidavit setting out the grounds upon which he supports the petition. The amended petition shall be treated as the petition for the winding up of the company.

565. *List of persons who intend to appear at hearing.*—The petitioner or his Advocate shall prepare a list of the names and addresses of the persons who have given notice of their intention to appear at the hearing of the petition, and of their respective Advocates, which list shall be in the prescribed form. On the day appointed for the hearing of the petition, a copy of the list (or, if no notice of intention to appear has been given, a statement in writing to that effect) shall be submitted by the petitioner or his Advocate to the Court prior to the hearing of the petition.

#### WINDING-UP ORDER AND DIRECTIONS.

566. *Winding-Up order.*—A winding-up order shall be in one of the two prescribed forms.

567. *Procedure on winding up order.*—When an order for the winding-up of a company by or under the supervision of the Court has been made—

- (a) the petitioner or his Advocate shall forthwith send to the Registrar of Joint Stock Companies a notice in the prescribed form together with a certified copy of the winding-up order, and
- (b) the Registrar of the Court shall, except where a Liquidator is appointed simultaneously forthwith send to the Official Receiver a notice in the prescribed form informing him that the order has been pronounced.

568. *Service of copy of order on the company.*—If the company is not the petitioner and does not appear at the hearing, a copy of the winding up order shall be served by the petitioner upon the company.

569. *Advertisement and service of winding-up order.*—Every order for the winding-up of a company, unless the Judge otherwise directs, shall, within twentyone days after the date thereof, be advertised, once in the Gazette of India and once in the Rajasthan Gazette. The said order shall also be published in such newspaper or newspapers and be served upon such person and in such manner as the Judge may direct. The advertisement shall be in the prescribed form.

The estimated cost of the aforesaid advertisement shall be deposited in Court by the petitioner or by the substituted petitioner, as the case may be, within seven days of the making of the order.

570. *Notice of applications by official Liquidator.*—All applications by an Official Liquidator shall be made on notice to such persons as may be affected by the order sought for and to such other persons as the Court may direct.

#### Section D—*Provisional and Official Liquidators.*

##### *Appointment of Provisional Liquidator.*

571. *Contents of orders appointing provisional Liquidator.*—The order appointing a Provisional Liquidator shall state the nature and description of any property of which possession is ordered to be taken and the duties of the Provisional Liquidator. Such order shall be in the prescribed form.

##### *Appointment and duties of Official Liquidator.*

572. *Appointment of official Liquidator.*—The Court may appoint a person to the office of Official Liquidator without any previous advertisement or notice to any party, or may fix a time and place for the appointment of an Official Liquidator, and may appoint or reject any person nominated at such time and place, and appoint any person not so nominated.

573. *Advertisement as to appointment.*—When a day is fixed for the appointment of an Official Liquidator, notice of such day shall be advertised in such manner as the Judge may direct, but so that the first or only advertisement shall be published not less than seven days before the day so fixed. The notice shall be in the prescribed form.

574. *Nomination.*—Any creditor or contributory may, on the date fixed for such appointment, nominate any person or persons for appointment as Official Liquidator, and every nomination shall be in writing signed by the nominator and nominee and contain an undertaking by the nominee that he will furnish such security as the Judge may order. The nomination shall be in the prescribed form.

575. *Order of appointment not to issue until security furnished.*—Where an Official Liquidator is appointed subject to his furnishing security to the satisfaction of the Judge or Registrar, no copy of the order shall issue (except for purposes of appeal and except where the Court otherwise directs) until such security has been furnished and certified as hereinafter provided. A certified

copy of the order appointing an Official Liquidator, whether with or without security, shall be filed by him with the Registrar of Joint Stock Companies within a fortnight of the order being made or within ten days of the security being furnished where security has been directed

576. *Furnishing of security.*—Every Official Liquidator, directed to furnish security, shall do so by depositing Government Securities or by entering into a bond with one or more sufficient sureties within such time as the Judge may direct. Such bond shall be in one of the prescribed forms and the affidavit by such sureties shall also be in the prescribed form.

577. *Certificate of Registrar.*—Where security is furnished by a Liquidator in accordance with Rule 576, a certificate shall be issued by the Registrar or the District Judge, as the case may be, certifying that the security has been duly furnished. Such certificate shall be in the prescribed form.

578. *Failure to give or maintain security.*—(1) If a Provisional Liquidator or Official Liquidator fails to furnish the required security within the time ordered or within any extension thereof, the Judge may rescind the order of appointment, and make such other appointment, and order as to costs as he considers fit and proper.

(2) If a Provisional Liquidator or Official Liquidator fails to maintain the security ordered to be furnished, the Judge may remove him and make such other appointment and such order as to costs as he may think fit.

579. *Insufficient or excessive security.*—If it shall appear at any time that the security furnished by the Provisional Liquidator or Official Liquidator is inadequate or excessive the Judge may upon the application of the Provisional Liquidator or Official Liquidator or of a creditor or contributory order that the security be increased or reduced in amount.

580. *Form of Order.*—An order made for the appointment of an Official Liquidator shall be in the prescribed form.

581. *Advertisement of appointment of Official Liquidator.*—The appointment of an Official Liquidator shall be advertised by such Liquidator in such manner as the Judge may direct immediately after the order has been made. Such advertisement shall be in the prescribed form.

582. *Filing of accounts.*—Every Official Liquidator shall at such time as may be directed by the Court but not less than twice in each year during his tenure of office file in Court an account of his receipts and payments as such Liquidator. The account shall be in duplicate and shall be verified by affidavit. The accounts and affidavit shall be in one of the prescribed forms.

583. *Audit.*—Upon the accounts being filed in the Court, the Registrar or the District Judge, as the case may be, shall cause the accounts to be audited. For the purposes of such audit the

Liquidator shall produce before the auditor all vouchers, books and accounts, which may be required by the auditor in support of the said account and shall furnish such information as the auditor may require. After the accounts have been audited, one copy thereof shall be filed in the Court and the duplicate shall be sent by the Registrar or the District Judge, as the case may be, to the Registrar of joint Stock Companies to be kept with his records. Notice of such audit shall be given to such persons as the Court may direct.

584. *Circumstances in which fresh security may be required.*—Whenever an Official Liquidator shall submit his accounts to be passed, and also at other times whenever the Judge may so direct, the Official Liquidator shall satisfy the Judge by affidavit or otherwise as the Judge may direct, that his sureties are living, and resident in India, and have not been adjudged insolvent, or in the case of a corporation, that such surety is carrying on business in India, and in default thereof he may be directed to furnish fresh security.

585. *Liquidator not to have dealings with Company.*—(1) An Official Liquidator, except by leave of the Judge, shall not directly or indirectly, by himself or by any partner, clerk agent, servant or otherwise into any transaction of any nature whatsoever with the company or himself as such Liquidator.

(2) Any transaction made in breach of the provisions of sub-rule (1) may be set aside by the Judge on the application of any creditor or contributory or of his own motion. The Judge may forthwith remove an Official Liquidator acting in breach of sub-rule (1) and may make such order as to costs as he may think fit.

(3) In any case in which the leave of the Judge is given under sub-rule (1), all costs of obtaining such leave shall be borne by the person in whose interest such leave is obtained and shall not be payable out of the Company's assets.

#### **Banking Account and Investment by Official Liquidator.**

586. *Official Liquidator to open Banking account.*—Upon a winding up order being made, the Official Liquidator shall as soon as may be after his appointment open an account in the name of the Official Liquidator of the Company in Liquidation with a Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, or with such other bank as the Court may select on an application made by him for the purpose under the proviso to section 244A of the Act. All moneys received in the course of the winding up shall be paid into such account within ten days after the receipt thereof. An authority to open an account with the bank shall be in the prescribed form.

587. *Operation of account.*—No money shall be paid out of the aforesaid bank except upon cheque or order signed by the Official Liquidator and countersigned by such person as is herein-after mentioned in Rule 589.

588. *Disposal of negotiable instruments.*—(1) All bills, hundies, notes and the other securities of a like nature payable to the company or to the Official Liquidator thereof shall, unless the Judge otherwise directs, as soon as they shall come to the hands of such Liquidator be deposited by him with such bank for the purpose of being presented for acceptance and payment or for payment only, as the case may be.

(2) No bills, hundies, notes or other securities deposited as aforesaid shall be delivered out save upon a request signed by the Official Liquidator and countersigned by such person as is herein-after mentioned in Rule 589.

589. *Countersigning authority.*—Unless otherwise ordered by the Judge, the person authorised to countersign under Rules 587 and 588 shall, where the powers mentioned in section 179 (f) of the Act have been delegated to the Official Liquidator, be such member as the Committee of Inspection shall appoint for the purpose, and where there is no committee of inspection, or the powers have not been delegated to the Official Liquidator, be the Registrar:

Provided that the Judge may dispense altogether with such countersignature.

590. *Investment of surplus funds.*—All or any part of the money for the time being standing to the credit of the account of the Official Liquidator at the bank and not immediately required for the purposes of winding up, may be invested in the name of the Official Liquidator in such securities as may be approved by the Judge. All such investments shall be made by the bank upon a request signed by the official Liquidator; such request shall be in the prescribed form. Such securities shall be retained by the bank in the name and on behalf of the Official Liquidator and shall not afterwards be sold or transferred or otherwise dealt with except with the leave of the Judge.

591. *Interest and dividends on investments.*—All dividends and interest to accrue due from any such securities shall from time to time be received by the bank (for which purpose the Official Liquidator may execute such power or powers of attorney as may be necessary) and placed to the credit of the account of such Official Liquidator.

#### **Books of account and records of Official Liquidator.**

592. *Records to be maintained by official Liquidator.*—The Official Liquidator shall forthwith upon his appointment provide and keep provided books of accounts for the purpose of showing the receipts and payments of the company in its liquidation and of all such transactions and matters as may be necessary to furnish a correct record of his administration of the affairs of the company. In particular, he shall keep:—

- (a) a cash book, in which shall be entered from day to day all receipts and payments,
- (b) a ledger, which shall include individual accounts of the contributories in which every contributory shall be debited with the amount payable by him in respect of any call, and
- (c) a book to be called the "Record Book" in which shall be recorded all minutes, all proceedings had, and resolutions passed at any meeting of creditors or contributories or of the Committee of Inspection and all such matters other than matters of account as may be necessary to furnish a correct view of his administration of the affairs of the company. The Official Liquidator shall not be bound to insert in the Record Book any documents of a confidential nature, nor need he exhibit such document to any person other than the Judge or a member of the Committee of Inspection

593. *Separate books of account if business of company carried on.*—Where the Liquidator is authorised to carry on business of the company, he shall keep separate books of accounts in respect of such business.

594. *Copies of accounts.*—A creditor or a contributory shall be entitled to obtain from the Court or from the Registrar of Joint Stock Companies a copy of any account filed by the Liquidator upon payment of the prescribed fees.

#### Statement of Affairs.

595. *Statement of affairs.*—Any person who under section 177-A of the Act has been required by the Official Liquidator to submit and verify a statement as to the affairs of the company shall be furnished by him with such forms and instructions as he may in his discretion consider necessary. The statement shall be prepared in duplicate, one copy of which shall be verified by an affidavit. The Official Liquidator shall cause the verified statement to be filed in the Court and shall retain the duplicate thereof for his records.

596. *Personal interviews.*—The Official Liquidator may from time to time, whether before or after the submission of the statement, hold personal interviews with persons required to submit the statement for the purpose of investigating the company's affairs, and it shall be the duty of every such person to attend on the Official Liquidator at such time and place as the Official Liquidator may appoint and give the Official Liquidator all information that he may require and answer all such questions as may be put to him by the Official Liquidator.

597. *Costs of statement and affidavit.*—Any person making or concurring in the making of a statement of affairs as required by section 177-A of this Act shall be paid by the Official Liquidator out of the assets of the company such costs and expenses incurred in or about the preparation and making of the statement and affid-



avit as the Official Liquidator may consider reasonable or as the Judge may on application by such person direct.

598. *Extension of time for making statement.*—(1) Where any person required to submit a statement under section 177-A of the Act requires an extension of time, he shall apply in the first instance to the Official Liquidator who may, if he thinks fit, give a written certificate extending the time and this certificate shall be filed with the proceedings in the winding-up.

(2) Where the Official Liquidator refuses to grant an extension of time for submitting the statement of affairs, the person required to submit the statement may on notice to the Official Liquidator apply to the Judge.

599. *Dispensing with statement of affairs.*—An application to dispense with the requirements of section 177-A of this Act shall be supported by a report of the Official Liquidator showing the special circumstances which in his opinion render such a course desirable. Where the Judge makes an order dispensing with the requirements of the section, he may give such consequential directions as he thinks fit.

600. *Further reports by Official Liquidator.*—The Official Liquidator if he thinks fit may in addition to the report required under section 177-B of the Act, make from time to time further reports to the Court stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or in its formation or by any director or other officer of the company in relation to the company since the formation thereof and any other matters which in his opinion it is desirable to bring to the notice of the Court.

601. *Directions on further report.*—Where a further report is made by the Official Liquidator under the preceding Rule, the Judge shall fix a date when the said report shall be considered, and shall on the date so fixed give such directions to the Official Liquidator as he may think fit in relation thereto. The Official Liquidator shall personally or by Advocate attend the consideration of the report and give the Court any further information or explanation with reference to the matters stated therein which the Court may require.

#### COMMITTEE OF INSPECTION.

602. *Report to be made to Court.*—As soon as possible after the meeting of the creditors and contributories held in accordance with section 178-A of the Act the Official Liquidator shall report the result of such meeting to the Court.

603. *Directions where Contributories and creditors differ.*—Where there is a difference between the determinations of the meetings of the creditors and contributories, the Judge shall on the application of the Official Liquidator fix a time and place for consideration of the resolutions and determinations and make such order as may be necessary. Where there is no such difference the Judge

may on the application of the Liquidator forthwith make any appointment necessary for giving effect to such resolutions or determinations.

604. *Advertisement of hearing.*—When the time and place has been fixed for the consideration of the resolution and determinations of the meetings, such time and place shall be advertised by the Liquidator in such manner as the Judge may direct.

605. *Procedure of hearing.*—On the date fixed in accordance with Rule 603, the Judge shall hear the Liquidator and any creditor or contributory who may appear on the application.

606. *Travelling expenses of members of Committee of Inspection.*—The Judge may sanction the payment of such amount as he thinks fit in respect of travelling expenses incurred by members of the Committee of Inspection in attending meetings of the Committee.

#### VACANCY IN OFFICE OF OFFICIAL LIQUIDATOR.

607. *Vacancy in office of Official Liquidator.*—If an Official Liquidator appointed by the Court dies or resigns or is removed, another Official Liquidator may be appointed in his place in the manner provided for the making of the first appointment.

608. *Resignation of Official Liquidator.*—An Official Liquidator who desires to resign his office shall apply to the Judge by petition for permission, and thereupon the Judge shall determine whether or not the resignation shall be accepted, or may give such directions and make such order as he may deem expedient.

609. *Insolvency of Official Liquidator.*—If an Official Liquidator be adjudged insolvent, the Judge shall, upon the application of any creditor or contributory, remove such Liquidator.

610. *Delivery of property to successor.*—Upon an Official Liquidator being permitted to resign or removed from his office, he shall deliver to his successor or to such person as the Judge may direct the property and assets of the company in his hands and all books kept by him and all other books, documents, papers and accounts in his possession relating to the company.

611. *Disposal of records.*—The Judge may, at any time during the progress of the liquidation, on the application of the Official Liquidator, give directions as to the disposal of such of the books, papers and documents of the company or of the Official Liquidator as are no longer required for the purpose of the liquidation.

#### REMUNERATION OF OFFICIAL LIQUIDATOR.

612. *Remuneration.*—(1) The Official Liquidator shall receive such remuneration as the Judge may direct, and such remuneration may be fixed either at the time of his appointment, or thereafter and may be altered. Such remuneration may be fixed or altered so as to cover or exclude the employment of assistants or

clerks, office rent and incidental expenses. No money shall be appropriated to such remuneration, save upon the passing of the account, or upon an application by the Official Liquidator for that purpose on notice to such person and supported by such evidence as the Judge may direct; provided nevertheless that the Judge may from time to time allow an Official Liquidator to appropriate such sum as he may think fit on account of remuneration to be thereafter fixed.

(2) An Official Liquidator shall not accept or agree to accept from any person any gift, remuneration or benefit whatever nor shall he without the sanction of the Judge give up or agree to give up any part of such remuneration to any person.

### PROOF OF DEBTS.

613. *Advertisement for claims.*—For the purpose of ascertaining the debts due by and claims against the company and of requiring debts and claims to be proved an advertisement shall be published by the Official Liquidator in such manner as the Judge may direct, such advertisement being in the prescribed form. Unless otherwise ordered by the Judge the date fixed in the advertisement shall not be less than fourteen days from the date of the publication thereof.

614. *Creditors to prove claim.*—In a winding up by the Court, every creditor shall, subject as hereinafter provided, prove his debts unless the Judge in any particular case shall direct that any creditor or class of creditors shall be admitted without proof.

615. *Proof by affidavit.*—(1) A debt may be proved by affidavit which may be made by the creditor himself or by some person authorised by him or on his behalf. If made by a person so authorised, the affidavit shall state his authority and means of knowledge.

(2) The affidavit shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated. The Liquidator to whom such proof is sent may at any time call for the production of the vouchers.

(3) The affidavit shall state whether the creditor is or is not a secured creditor. Where the creditor seeks to prove in respect of a bill of exchange, promissory note or any other negotiable instrument or security of a like nature on which the company is liable, such bill of exchange, note, instrument or security shall be produced before the liquidator and be marked by him before the proof is admitted.

(4) The affidavit shall be in the prescribed form.

616. *Discount.*—A creditor proving his debt shall deduct therefrom all trade discount, but he shall not be compelled to deduct any discount, not exceeding five per cent., on the net amount of his claim, which he may have agreed to allow for payment in cash.

617. *Periodical payments.*—When any rent or other payment falls due at stated periods, and the order or resolution to wind up is made at any time other than one of such periods, the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of the winding up order or resolution as if the rent or payment grew due from day to day.

Provided that where the Official Liquidator remains in occupation of premises demised to a company which is being wound up, nothing herein contained shall prejudice or affect the right of the landlord of such premises to claim payment by the company, or the Official Liquidator, of rent during the period of the company's or the Official Liquidator's occupation.

618. *Estimation of value of debts and claim.*—The value of all debts and claims against the company shall, so far as may be, be estimated according to the value thereof at the date of the order to wind up the company.

619. *Dividends payable for principal and interest.*—Creditors whose debts and claims carry interest, and are allowed, shall be entitled to receive dividends upon what was due for principal and the rest at the date of the winding up. In the event of there being a surplus the Official Liquidator shall pay to such creditors further interest on the amount of their admitted claims at such rate as shall be fixed by the Court.

620. *Interest.*—On any debt or certain sum, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the winding up order or resolution, the creditor may prove for interest at a rate not exceeding six per cent per annum to that date from the date when debt or sum was payable if the debt or sum was payable by virtue of a written instrument at a certain date; and if payable otherwise, then from the date when a demand in writing has been made giving notice that interest would be claimed from the date of the demand until the date of payment.

621. *Proof for debt payable at a future time.*—A creditor may prove for a debt not payable at the date of the winding up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting thereout only a rebate of interest at the rate of five per cent per annum computed from the declaration of a dividend to the date when the debt would have become payable according to the terms on which it was contracted.

622. *Workmen's wages.*—Where it appears that there are numerous claims for wages by workmen and others employed by the company, it shall be sufficient if one proof for all such claims is made either by a foreman or by some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the workmen and others, and the amounts severally due to them (Form prescribed). Any proof made in compliance with this Rule shall have the

same effect as if separate proof had been made by each of the said workmen and others.

623. *Notice of investigation.*—A debt may be proved in a winding up by delivery of or sending by post an affidavit verifying the debt, to the Official Liquidator and a creditor need not attend upon the investigation unless required to do so by a notice from the Official Liquidator. Such notice may be given by post at the last known address of the creditor and shall be in the prescribed form.

624. *Production of securities and vouchers.*—The Official Liquidator may at any time call for the production of the securities or vouchers specified in the affidavit referred to in Rule 615 and in default of such production may reject the proof.

625. *Disposal of claims.*—The Official Liquidator shall within two months after receiving a proof either admit or reject it wholly or in part and shall thereupon inform those creditors whose claim he wholly admits of his decision in respect of such claims. If he rejects the proof, he shall state in writing to the creditor the grounds of such rejection.

626. *Settlement of list of creditors.*—When the Official Liquidator has completed his investigation of all debts and claims, he shall file a list thereof in Court supported by an affidavit and obtain an appointment from the Judge to settle the same. He shall give not less than seven days notice of such appointment to every person included in such list, except those whose claims he wholly admits, stating that his debt or claim has been rejected in whole or in part as the case may be and requiring him to prove as much of it as has been rejected before the Judge. Such affidavit and notice shall be in the prescribed forms.

627. *Cost of proof.*—Such creditors as prove their debts or claims shall, unless the Judge otherwise directs, bear the costs of such proof.

628. *Settlement of the list of debts & claims.*—The settlement of the list of debts or claims shall be recorded in certificate signed by the Judge in the prescribed form.

629. *Expunging proof at instance of Official Liquidator.*—(1) If the Official Liquidator is of opinion that a proof has been improperly admitted, he may apply, on notice to the creditor who made the proof, to expunge the proof or reduce its amount.

*Expunging at instance of creditor.*—(2) If the Official Liquidator declines to interfere in the matter, a creditor or contributory may apply to the Judge to expunge or reduce a proof.

## COLLECTION AND DISTRIBUTION OF ASSETS.

630. *Duty of Official Liquidator.*—The duties imposed on the Court by section 184 (1) of the Act in a winding up by the

Court, with regard to the collection of the assets of the company, and the application of the assets in discharge of the company's liabilities, shall be discharged by the Official Liquidator as an officer of the Court subject to the control of the Judge.

631. *Official Liquidator to have powers of a Receiver.*—For the purpose of the discharge by the Official Liquidator of such duties, the Official Liquidator shall for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a Receiver of property appointed by the Court, and the Judge may, on his application, enforce such acquisition or retention accordingly.

#### LIST OF CONTRIBUTORIES.

632. *Official Liquidator to settle list of contributories.*—After his appointment, the Official Liquidator shall, with all convenient speed prepare a list of the contributories of the company and shall, appoint a time and place for the preliminary settlement of such list. The Official Liquidator shall, so far as is practicable, state therein the respective addresses of and the number of shares or extent of interest to be attributed each contributory, and shall distinguish the several classes of contributories. As regards representative contributories the Official Liquidator shall observe the requirements of section 184 (2) of the Act.

633. *Appointment of time and place for settlement of list*—The Official Liquidator shall give notice in writing of the time and place appointed for the preliminary settlement of the list of contributories to every person included in the list, and shall state in the notice to each person in what character and for what number of shares or interest such person is included in the list. Such notice shall be in the prescribed form and due service thereof shall be proved by an affidavit in the prescribed form.

634. *Settlement of preliminary list of contributories.*—On the day appointed for the preliminary settlement of the list of contributories, the Official Liquidator shall hear any person who has any objection to prefer with reference to his inclusion (or to the extent thereof) in the said list, and after such hearing, the Official Liquidator shall complete the preliminary settlement of the list and file the same. Such list shall, be in the prescribed form.

635. *Notice of date appointed for settlement of final list of contributories.*—Upon the list of contributories being filed, the Official Liquidator shall obtain an appointment from the Judge to settle the same, and shall give notice in writing of such appointment to every person included in such list, stating in what character and for what number of shares or interest such person is included in such list and by such notice shall inform such person that any application for the removal of his name from the list, or for any other variation of the list, shall be made on such appointed day. Unless the Judge otherwise directs, no application to vary the list

as filed shall be entertained unless made on the day so appointed. Any application for such purpose made on any day other than the day so appointed shall be made by petition to be served on the Official Liquidator at least four clear days before the returnable date of such petition, and unless good cause be shown that such application could not have been made on the appointed day, all costs of and incidental to such application shall be payable by the applicant. The notice prescribed by this Rule shall be in the prescribed form.

636. *Settlement of final list of contributories.*—Upon the settlement of the list by the Judge, the same shall be endorsed and signed by him. Such endorsement shall be in the prescribed form.

637. *Variation or addition to list of contributories.*—The Official Liquidator may from time to time apply to the Judge to vary the list of contributories. Upon such application the Judge shall give such directions as to notice and other matters and make such order as may be necessary.

638. *Address of contributory for service.*—The address of a contributory as stated in such list shall, unless otherwise directed by the Judge, be his address for service under these Rules.

639. *Calls by Official Liquidator.*—Where the Official Liquidator desires to make any call on a contributory or contributories for any purpose authorised by the Act, he shall in the first instance summon a meeting of the Committee of Inspection, if and for the purpose of obtaining their sanction to the intended call. The notice of such meeting shall be sent to each member of the Committee of Inspection and shall contain a statement of the proposed amount of the call and the purpose for which it is needed. The sanction of the Committee of Inspection shall be given by a resolution passed by a majority of the members. Where there is no Committee of Inspection, the Liquidator shall not make a call without obtaining the leave of the Court.

640. *Application to the Court for leave to make a call.*—Where there is no Committee of Inspection, or where the Official Liquidator does not agree with the decision of the Committee of Inspection, he may apply to the Court for leave to make a call and the Court shall on such application make such orders as it thinks fit. If on the hearing of such application, the Court gives leave to the Official Liquidator to make a call, the subsequent proceedings shall be in accordance with the provisions of Rule 642.

641. *Form of petition.*—An application by the Official Liquidator for leave to make a call on contributories of the company or any of them shall be made by petition. Such petition shall be in the prescribed form.

642. *Notice of petition.*—If the Judge admits the petition, he shall fix a date for the hearing thereof, and notice of such appointed date shall be given by advertisement or otherwise as the Judge may direct. No contributory shall be served with individual notice unless the Judge so directs and every notice and advertisement to

be served, given or published under this Rule shall be served or published at least fourteen days before the date so appointed. Such notice shall be in the prescribed form.

643. *Payment of a call*—When any order authorising a call has been made, a copy thereof shall forthwith be served by registered post, or as the Judge may direct, upon each of the contributories liable to pay such call, together with a notice by an Official Liquidator specifying the amount due from such contributory in respect of such call. Such order and notice shall be in the prescribed forms. At the time of making an order authorising the call, the Judge shall give directions as to the time within which such calls shall be paid and shall indicate whether the payment shall be made to the Official Liquidator or to the bank where the Liquidator has his account.

644. *Order for payment of amount due from a contributory.*—The payment of the amount due from each contributory may be enforced by order of the Judge to be made on petition by the Liquidator supported by an affidavit. Such petition and order shall be in the prescribed forms. Service of the order shall be effected in such manner as the Court may direct. The affidavit of service of the order shall be in the prescribed form.

#### COMPROMISE OF CLAIMS BY COMPANY.

645. *No Compromise of claims without sanction of the Court.*—No claim by the company against any person shall be compromised or abandoned by the Official Liquidator without the sanction of the Judge upon notice to such person or persons as the Judge may direct.

646 *Application for compromise to be accompanied by affidavit of Official Liquidator*—Every application for sanction to a compromise or arrangement with any person indebted to the company shall be supported by the affidavit of the Official Liquidator stating that he is satisfied for reasons stated in such affidavit that the proposed compromise or arrangement would be beneficial to the company

#### APPEALS AGAINST AN ACT

##### OR DECISION OF THE LIQUIDATOR.

647. *Appeals from decision of Official Liquidator.*—(1) If a creditor or contributory is dissatisfied with any act or decision of the Official Liquidator on any matter, the Judge may on the application of such creditor or contributory reverse or vary it.

*Limitation* (2) An application under section 183 (5) of the Act shall be made by petition supported by the affidavit of the applicant on notice to the Official Liquidator, and shall be made within twenty-one days from the date of the act or decision complained of.



## PROCEEDINGS UNDER SECTIONS 215 AND 216 OF THE ACT.

648. *Appeal under section 215*—(1) An appeal under section 215 of the Act shall be by petition verified by affidavit on notice to the Liquidator.

*Application under section 216*. (2) A application under section 216 of the Act shall be by petition verified by affidavit. Notice of the application shall be given to such person or persons as the Court may direct.

## SALE OF PROPERTY

649. *Sale of Property*—No property belonging to a company which is being wound up by the Court shall be sold by the Liquidator without the sanction of the Court. Where a sale is sanctioned by the Court, the sale shall be held by the Liquidator, or if the Judge so directs, by an agent or auctioneer appointed by him for such purpose. All sales shall, unless the Judge otherwise directs, be made by public auction.

650. *Special contracts of sale*.—In a sale of movable property, unless the Judge otherwise directs, the conditions of sale shall be the same as those in force in sales under decrees or orders of the Court. Where for special reasons the Liquidator is of opinion that a special contract is necessary, he shall apply to the Judge to settle the terms.

651. *Payment of purchase price*—The purchase money in a sale held in accordance with Rule 649 shall be paid in such manner as the Judge may direct, and in the absence of any directions shall be paid by the purchaser to the Official Liquidator or to his credit at the bank where he has his account.

## DIVIDENDS

652. *Court to sanction declaration of dividend*—No dividend shall be declared by the Official Liquidator without the sanction of the Court.

653. *Notice of intention to apply for leave to dividend*.—Not less than two months before applying to the Court for leave to declare a dividend, the Official Liquidator shall give notice of his intention to do so to such of the creditors mentioned in the statement of affairs as have not proved their debt. Such notice shall specify the latest date up to which proof may be lodged and such date shall not be less than fourteen days from the date of such notice.

654. *Disposal of claim*.—Where any proof is lodged pursuant to such notice, the Official Liquidator shall in relation to the admission or rejection thereof act in accordance with Rule 625. The Official Liquidator shall apply, if necessary, to vary the list of creditors settled by the Court.

655. *Notice of intention to declare a dividend*.—Notice shall be given by the Official Liquidator of the declaration of each divi-

dend. Such notice shall be given by advertisement (unless the Judge otherwise directs) and by sending by prepaid letter, post a notice to every person whose name appears in the list of creditors as certified. Such notices shall be in the prescribed forms.

656. *Payment of dividends by post.*—Dividends may, at the request and risk of the person to whom they are payable, be transmitted to him by post.

657. *Authority to pay dividend to named person.*—A person to whom dividends are payable may lodge with the Official Liquidator an authority in writing to pay such dividends to another person named therein. Such authority shall be in the prescribed form.

658. *Form of order.*—Every order by which the Official Liquidator in a winding up by Court is authorised to make a return to contributories of the company shall, unless the Judge otherwise directs, contain or have appended thereto a schedule (prepared by the Official Liquidator setting out in tabular form the names and addresses of the persons to whom the return is to be made and the amount of money payable to each person and particulars of the transfers of shares (if any) which have been made or the variations in the list of contributories which have arisen since the date of settlement of the list of contributories. The schedule or list shall be in the prescribed form and notice of the return shall be given to each contributory in the prescribed form.

#### SECTION E.—General Meeting of Creditors and Contributories.

659. *General meetings.*—All general meetings of creditors or contributories shall, unless the Judge otherwise directs, be convened and held in the manner hereinafter provided.

660. *Notice of meeting.*—The Official Liquidator shall summon a meeting by giving not less than seven days' notice of the time and place thereof in two daily newspapers circulating in the State of Rajasthan and shall, not less than seven days before the day fixed for the meeting, send notice thereof by prepaid letter post to every person appearing to him entitled to be present thereat. Such notice shall be in the prescribed form.

661. *Proof of notice.*—In the case of a meeting convened by direction of the Judge, the Official liquidator shall certify by affidavit that the requisite notices of the meeting have been duly posted. Such affidavit shall be in the prescribed form.

662. *Time and place of meeting.*—All meeting shall be held at such time and place as in the opinion of the Official Liquidator is most convenient.

663. *Costs of calling meeting.*—The Official Liquidator may require a creditor or contributory who desires that a meeting be convened, to deposit as a condition precedent thereto a sum sufficient to cover the costs thereof. On an application to the Judge by a creditor or contributory for a direction to the Official Liquidator to

convene a meeting, the Judge may, whether the Official Liquidator has or has not required such deposit to be made, fix a sum to be deposited by the applicant on account of such costs.

Such sum shall cover the cost of printing, stationery, postage and hire of room and shall be calculated in the following manner namely:—

Rupee one per creditor or contributory.	For the first twenty-five creditors or contributories.
Annas eight per creditor or contributory.	For the next seventy-five creditors or contributories.
Annas four per creditor or contributory.	For the remaining creditors or contributories.

Any sum deposited under this Rule, shall, if the Judge so directs, be repaid out of the assets of the Company.

664. *Chairman of meeting.*—At every meeting of creditors or contributories the Official Liquidator, or some person nominated by him, shall be Chairman of the meeting. In the event of more than one person being appointed Official Liquidators, the person named first in the order of appointment shall be entitled to take the chair or make the aforesaid nomination. Such nomination shall be in the prescribed form.

665. *Ordinary resolution of creditors.*—(1) At a meeting of creditors a resolution shall be deemed to have been passed when a majority in number and value of the creditors present personally or by proxy, and voting on the resolution, have voted in favour of the resolution.

(2) *Contributories.*—At a meeting of contributories a resolution shall be deemed to have been passed when a majority in number and value of the contributories present personally or by proxy, and voting on the resolution have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulation of the company.

666. *Copy of resolution to be filed.*—The Official Liquidator shall file with the Registrar a copy certified by him to be correct of every resolution passed at a meeting of creditors or contributories.

667. *Non-receipt of notice not to invalidate proceedings.*—No proceedings or resolutions had or passed at a meeting of creditors or contributories shall, unless the Judge otherwise orders, be invalidated by reason of any creditor or contributory not having received notice thereof.

668. *Adjournment.*—The Chairman may, with the consent of the meeting, adjourn it from time to time, but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified, or unless the Judge otherwise directs.

669. *Quorum*.—(1) A meeting may not act for any purpose except for the adjournment of the meeting unless there are present thereat in person at least three creditors, or contributories entitled to vote.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the Chairman may appoint, not being earlier than seven or later than fourteen days. At such adjourned meeting two creditors or contributory present in person shall form a quorum and may transact the business for which meeting was convened.

670. *Circumstances in which creditor may not vote*.—(1) Unless the Judge otherwise directs, no person shall be entitled to vote at a meeting of creditors unless he had lodged with the Official Liquidator a proof of the debt which he claims to be due to him from the Company, and such proof has been admitted wholly, or in part, before the date on which meeting is held.

(2) A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

671. *Votes of secured creditors*.—For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of the security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security.

672. *Creditor required to give up security*.—If a secured creditor votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Judge on application is satisfied that the omission to value the security has arisen from inadvertence.

673. *Minute of meetings*.—The Chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and shall sign the same and affix by his own hand the date of such signature.

674. *Report by Chairman*.—The Chairman of a meeting summoned by the direction of the Judge shall report the result thereof to the Judge. Such report shall be in the prescribed form.

### PROXIES.

675. *Proxies*.—A creditor or contributory may vote either in person or by proxy.

676. *Form of proxy*.—Every instrument of proxy shall be in the prescribed form unless the Judge otherwise directs.

677. *Form of proxy to be sent with notice*.—A form of proxy shall be sent to the creditors and contributories with the notice summoning the meeting. Neither the name nor description of the

Official Liquidator nor of any other person shall be printed or inserted in the body of any form of proxy so sent.

678. *Persons who may not be appointed proxies*—(1) No creditor shall appoint a proxy who is not a creditor of the company or whose debt or claim has not been admitted or allowed and no contributory shall appoint a proxy who is not a contributory of the company, but a creditor or contributory may appoint the Official Liquidator to act as his proxy.

(2) No minor shall be appointed a proxy.

679. *Proxies to be lodged with the Official Liquidator*.—Unless the Judge directs otherwise, proxy shall be lodged with the Official Liquidator not later than four O' clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used, and no proxy shall be admitted there after.

680. *Companies & corporations*.—Where a limited company or a corporation is a creditor, any person who is duly authorised in writing by the company or corporation to act generally on its behalf at meetings of creditors and contributories and to appoint himself or any other person to be the company's or corporation's proxy, may fill in and sign the form of proxy on such company's or corporation's behalf appointing himself or any other person to be its proxy and a proxy so filled in and signed by such person shall be received and dealt with as the proxy of the company or corporation.

681. *Use of proxies by deputy*.—Where an Official Liquidator holds any proxies and cannot attend the meeting for which they are given, he may by a direction in writing depute some other person to use the proxies on his behalf in such manner as he may direct

682. *Completion of proxy where creditor is blind or incapable*.—The proxy of a creditor who is blind or incapable of writing may be accepted if such creditor has attached his signature or mark thereto in the presence of witness:

Provided that such witness has added to his signature his own description and residence that all insertions in the proxy are in his handwriting and that he has certified at the foot of the proxy that all such insertions were made by him at the request and in the presence of the creditor before such creditor attached signature or mark to the proxy.

683. *Proxies signed otherwise than in Hindi or Roman Character*.—A proxy signed otherwise than in Devanagari or Roman characters shall also bear adjacent to the signature, the name of the signatory in Devanagari or Roman characters, and where such name is that of a creditor or contributory, the Official Liquidator shall not be bound to make further enquiry as to the genuineness of such signature.

684. *Holder of proxy not to vote on matter in which he is financially interested*.—No person acting under either a general or a special proxy shall vote in favour of any resolution which would

directly or indirectly place him, his partner or employer in a position to receive any remuneration out of the estate of the company otherwise than as a creditor rateably with the other creditors of the company:

Provided that where any person holds special proxies to vote in favour of the appointment of himself as Official Liquidator, he may use the said proxies and vote accordingly.

#### Section F.

*Examination of persons suspected of having property of Company.*

685. *Application under section 195.*—An application for the examination of a person under section 195 of the Act shall be made *ex parte* to the Judge by petition verified by the Official Liquidator stating the facts upon which the application is based. At the hearing of the application the Judge may, if satisfied that a *prima facie* case for such examination has been made out, direct the issue of a summons against the person named in the order for examination or for production of documents or for both. The summons shall be in the prescribed form.

686. *Official Liquidator may attend examination.*—At the examination of a person summoned, the Official Liquidator may attend in person, or by an Advocate, and assist the Court in examining the person summoned.

687. *Examination not to be in open Court.*—(1) At such examination, save and except the Liquidator and the Advocate employed by him and the person to be examined, no person shall be entitled to attend.

(2) Unless the Judge otherwise directs, no such examination shall be made in open Court. The notes of the deposition of a person so examined shall be signed by him and shall be filed in court. They shall not be open to the inspection of any creditor, contributory or person other than the Official Liquidator. No person other than the person examined and the Official Liquidator shall be entitled to a copy. Unless the Judge otherwise directs, such copy shall be supplied on payment of the usual charges.

688. *Conduct of Examination.*—In the High Court the Judge may, at the time of making the order for such examination, direct that it shall be held by an officer of the High Court, and that the powers of the Court as to the conduct of the examination shall be exercised by such officer. He shall have no power to make any order as to costs.

#### PUBLIC EXAMINATION.

689. *Procedure consequent on order for public examination.*—An order by the Judge under section 196 of the Act shall be in the prescribed form. Where such order has been made directing any person to attend for public examination,

(a) the examination shall be held before the Judge; provided that the Judge may direct that the whole or any part of such examination be held before the Registrar or any

other officer mentioned in sub-section (9) of the said section;

- (b) the Judge may, if he thinks fit, either in the order for examination, or by any sub-sequent order, give directions as to the special matters on which any such person is to be examined;
- (c) where an examination is held before the Registrar or other officer of the Court, such officer, may, if he is of opinion that such examination is being unduly or unnecessarily protracted, or for any other sufficient cause, adjourn the examination, or any part of the examination, to be held before the Judge.

690. *Application for day for holding examination.*—(1) Upon an order directing a person to attend for public examination being made, the Official Liquidator shall apply for the appointment of a day on which such examination is to be held.

*Appointment of day for public examination.*—(2) A day shall thereupon be appointed by the Registrar (Form prescribed) for holding such public examination, and notice of the day so appointed shall be given by the Official Liquidator to the person who is to be examined by sending such notice by registered post addressed to his usual or last known address (Form prescribed).

*Notice of public examination to creditors and contributories.*—(3) The Official Liquidator shall give notice of the day appointed for holding the public examination to the creditors and contributories by advertisement in such newspapers as the Registrar may direct.

(4) Where an adjournment of the public examination has been directed, notice of the adjournment shall not be advertised, unless otherwise directed by the Court.

691. *Default in attending.*—If any person who has been directed by the Court to attend for public examination fails to attend at the time appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination, the Official Liquidator satisfies the Court that such person has absconded or that there is reason to believe that he is about to abscond with the view of avoiding examination, the Court, on being satisfied that notice of the order and of the time appointed for attendance at the public examination was duly served, may without any further notice issue a warrant (in the prescribed form) for the arrest of the person required to attend, or make such other order as the Court may deem just.

## SECTION G.

### *Proceedings against delinquent Directors, Promoters and Officers.*

692. *Application against delinquent Directors, Officers and promoters.*—(1) An application under section 235 (1) or sub-

section (1) or (5) of section 237 of the Act shall be made by petition to the Court. Notice of the application shall, unless otherwise ordered by the Court, be served on every person against whom an order is sought, not less than eight days before the day named in the notice for hearing the application. Where the application is made by the Official Liquidator, he may report to the Court any facts or information derived from affidavits or sworn evidence in the proceedings; where the application is made by any other person, it shall be supported by affidavit to be filed by him.

(2) The hearing of the application shall take place before the Judge in Court, and he may give such directions as he may deem necessary for the taking of evidence wholly or in part by affidavit, or orally, and the cross-examination of any deponents to affidavits in support of or in opposition to the application.

693. *Use of depositions taken at public examinations.*—The verified notes of the deposition of any person examined under section 196 of the Act shall be admissible in evidence in any subsequent proceeding arising out of an application referred to in Rule 692 under the following circumstances and condition namely:—

- (1) That it appears from the examination of the persons examined under section 196 of the Act that they or some of them had misapplied or retained or become liable or accountable for monies or property of the company or been guilty of misfeasance or breach of trust in relation to the company.
- (2) That the subsequent proceeding is instituted for the purpose of examining into the conduct of such persons or any of them for instituting criminal proceedings against them or any of them or compelling repayment or restoration to the company of any monies or property or contribution by way of compensation to the assets of the company by them or any of them.
- (3) That the use of such notes shall be subject to any directions of the Court as to the manner and extent in and to which they shall be used and to all just exceptions as to the admissibility in evidence against any particular person or persons of any of the statements contained in the notes.
- (4) That the person against whom such notes are sought to be used was present at or had the opportunity of being present at and taking part in the examination.
- (5) That the person intending to use such notes shall have, not less than fifteen days before the day appointed for hearing the application referred to in Rule 692, given notice of such intention to each person against whom it is intended to use such notes specifying the notes or parts thereof which it is intended to read against him, and fur-



nish him with copies of such notes or parts of such notes, unless the notes be of that person's own deposition.

- (6) That the person against whom the application is made shall be at liberty to cross-examine or examine, as the case may be, any person the notes of whose examination are read, in all respects as if such person had made a affidavit on the application.

## SECTION H.

### *Witnesses and Depositions.*

694. *Committal of contumacious witnesses.*—(1) If a person examined before a Registrar or other officer of the Court, who has no power to commit for contempt of Court refuses to answer to the satisfaction of the Registrar or officer any question which he may allow to be put, the Registrar or such Officer shall report such refusal to the Judge and upon such report being made the person in default shall be in the same position, and be dealt with in the same manner, as if he had made default in answering before the Judge.

(2) The report shall be in writing and shall set forth the question put and the answer, if any, given by the person examined (Form prescribed).

(3) The Registrar or such officer shall, before the conclusion of the examination at which the default in answering is made, name the date and the time when the default will be reported to the Judge. If the Judge is sitting at the time when the default in answering is made, such default may be reported to him at once. Upon receiving the report the Judge may take such action thereon as he may think fit.

695. *Deposition at private examination.*—(1) The Official Liquidator may attend in person any examination of a witness under section 195 of the Act, on whosoever application the same has been ordered, and may take notes of the examination for his own use, and put such questions to the person examined as the Court may allow.

(2) The notes of the deposition of a person examined under section 195 of the Act, or under any order of the Court, other than the notes of the deposition of a person examined at a public examination under section 196 of the Act, shall not be filed, or be open to the inspection of any creditor, contributory or other person, except the Official Liquidator, unless and until the Court shall so direct. The Court may from time to time give such general or special direction as it may think fit as to the custody and inspection of such notes and the furnishing of copies thereof or extracts therefrom.

## SECTION I.

### *Arrest and Commitment.*

696. *To whom warrant may be addressed.*—A warrant of arrest or any other warrant issued under the provisions of the Act and these Rules, shall be addressed to the proper officer of the Court

or of such other court, whether such Court has jurisdiction to wind-up a company or not, as the Court may in each case direct.

697. *Prison to which arrested on warrant is to be taken.*—Where the Court issues a warrant for the arrest of a person under any provision of the Act or these Rules, the prison to be named in the warrant of arrest to which the person shall be committed shall, unless the court otherwise orders, be the prison to which commitments are made by the Court in the exercise of its ordinary jurisdiction.

#### SECTION J.

##### *Disclaimer of Property*

698. *Disclaimer.*—(1) An application by the Official Liquidator for leave to disclaim any part of the property of a company, pursuant to subsection (1) of section 230-A of the Act, shall be by petition supported by affidavit showing who are the parties interested and what their interests are. On the hearing of the petition the Court shall give such directions as it sees fit and may adjourn the application to enable the parties interested or any of them to attend.

(2) When the Official Liquidator disclaims leasehold interest, he shall forthwith file the disclaimer with the proceedings in Court. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is filed by the Official Liquidator, the disclaimer shall be inoperative. A disclaimer or a notice of disclaimer shall be in the prescribed form.

(3) When any person claims to be interested in any part of the property of a company which the Official Liquidator wishes to disclaim, he shall at the request of the Official Liquidator furnish a statement of the interest so claimed by him.

699. *Vesting of disclaimed property.*—(1) Any application under subsection (6) of section 230-A of the Act for an order for the vesting of any disclaimed property in or the delivery of any such property to any person shall be supported by the affidavit filed on the application for leave to disclaim such property.

(2) When such application as aforesaid relates to disclaimed property of a leasehold nature and it appears that there is any mortgage or underlease of such property, the Court may direct that notice shall be given to the mortgagee or underleasee that if he does not elect to accept and apply for such a vesting order as aforesaid, upon the terms required by the abovementioned sub-section and imposed by the Court, within a time to be fixed by the Court and stated in the notice, he will be excluded from all interest in and security upon the property, and the court may adjourn the application for such notice to be given. If at the expiration of the time so fixed by the Court, such mortgagee or underleasee fails to make such election and application, the court may make an order vesting the property in the applicant and excluding such mortgagee or underleasee from all interest in or security upon the property.

nish him with copies of such notes or parts of such notes, unless the notes be of that person's own deposition.

- (6) That the person against whom the application is made shall be at liberty to cross-examine or examine, as the case may be, any person the notes of whose examination are read, in all respects as if such person had made a affidavit on the application.

## SECTION H.

### *Witnesses and Depositions.*

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(2) The report shall be in writing and shall set forth the question put and the answer, if any, given by the person examined (Form prescribed).

(3) The Registrar or such officer shall, before the conclusion of the examination at which the default in answering is made, name the date and the time when the default will be reported to the Judge. If the Judge is sitting at the time when the default in answering is made, such default may be reported to him at once. Upon receiving the report the Judge may take such action thereon as he may think fit.

695. *Deposition at private examination.*—(1) The Official Liquidator may attend in person any examination of a witness under section 195 of the Act, on whosoever application the same has been ordered, and may take notes of the examination for his own use, and put such questions to the person examined as the Court may allow.

(2) The notes of the deposition of a person examined under section 195 of the Act, or under any order of the Court, other than the notes of the deposition of a person examined at a public examination under section 196 of the Act, shall not be filed, or be open to the inspection of any creditor, contributory or other person, except the Official Liquidator, unless and until the Court shall so direct. The Court may from time to time give such general or special direction as it may think fit as to the custody and inspection of such notes and the furnishing of copies thereof or extracts therefrom.

## SECTION I.

### *Arrest and Commitment.*

696. *To whom warrant may be addressed.*—A warrant of arrest or any other warrant issued under the provisions of the Act and these Rules, shall be addressed to the proper officer of the Court

or of such other court, whether such Court has jurisdiction to wind-up a company or not, as the Court may in each case direct.

697. *Prison to which arrested on warrant is to be taken.*—

Where the Court issues a warrant for the arrest of a person under any provision of the Act or these Rules, the prison to be named in the warrant of arrest to which the person shall be committed shall, unless the court otherwise orders, be the prison to which commitments are made by the Court in the exercise of its ordinary jurisdiction.

#### SECTION J.

##### *Disclaimer of Property*

698. *Disclaimer.*—(1) An application by the Official Liquidator for leave to disclaim any part of the property of a company, pursuant to sub-section (1) of section 230-A of the Act, shall be by petition supported by affidavit showing who are the parties interested and what their interests are. On the hearing of the petition the Court shall give such directions as it sees fit and may adjourn the application to enable the parties interested or any of them to attend.

(2) When the Official Liquidator disclaims leasehold interest, he shall forthwith file the disclaimer with the proceedings in Court. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is filed by the Official Liquidator, the disclaimer shall be inoperative. A disclaimer or a notice of disclaimer shall be in the prescribed form.

(3) When any person claims to be interested in any part of the property of a company which the Official Liquidator wishes to disclaim, he shall at the request of the Official Liquidator furnish a statement of the interest so claimed by him

699. *Vesting of disclaimed property.*—(1) Any application under sub-section (6) of section 230-A of the Act for an order for the vesting of any disclaimed property in or the delivery of any such property to any person shall be supported by the affidavit filed on the application for leave to disclaim such property.

(2) When such application as aforesaid relates to disclaimed property of a leasehold nature and it appears that there is any mortgage or underlease of such property, the Court may direct that notice shall be given to the mortgagee or underleasee that if he does not elect to accept and apply for such a vesting order as aforesaid, upon the terms required by the abovementioned sub-section and imposed by the Court, within a time to be fixed by the Court and stated in the notice, he will be excluded from all interest in and security upon the property, and the court may adjourn the application for such notice to be given. If at the expiration of the time so fixed by the Court, such mortgagee or underleasee fails to make such election and application, the court may make an order vesting the property in the applicant and excluding such mortgagee or underleasee from all interest in or security upon the property.

SECTION K—*Meetings of creditors and contributories in relation to a creditor's voluntary winding-up.*

700. *Application of Rules.*—Subject to any directions which the Judge may give, all meetings in a voluntary winding-up shall be governed by Rules 702 to 711.

701. *Application of Rules.*—Except and in so far as the subject matter or the context may otherwise require, Rules 663, 665, 668, 669 and 675 to 684 shall apply to meetings of creditors or contributories convened in a voluntary winding-up of a company.

702. *Summoning of meetings.*—In any creditors' voluntary winding-up the Liquidator may from time to time summon, hold and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the winding-up.

703. *Notice of meeting.*—The Liquidator shall summon all meetings of creditors and contributories by giving not less than seven days' notice of the time and place thereof in the official Gazette and in a local news-paper; and shall, not less than seven days before the day appointed for the meeting, send by post under certificate of posting to every person appearing in the company's books to be a creditor, notice of the meeting of creditors and to every person appearing in the company's books or otherwise to be a contributory, notice of the meeting of contributories. Notice to a creditor shall be sent to the address given in his proof, or, if he has not proved, to the address given in the Statement of Affairs of the company or such other address as may be known to the Liquidator. Notice to a contributory shall be sent to the address mentioned in the company's books as the address of such contributory or to such other address as may be known to the Liquidator.

704. *Proof of service of notice.*—An affidavit by the Liquidator that notice of a meeting has been duly posted in accordance with Rule 703 shall be sufficient evidence of such notice having been sent to the person to whom it was addressed.

705. *Time and place of meetings.*—(1) Every meeting all be held at such place and at such time as in the opinion of the Liquidator shall be most convenient. The cost of summoning a meeting of creditors or contributories convened by a Liquidator shall be paid by him out of the assets of the company.

(2) Different times or places may if thought expedient by the Liquidator, be appointed for the meetings of creditors and contributories respectively.

706. *Chairman.*—The Chairman of any such meeting shall be the Liquidator or some person nominated by him for that purpose, and in the event of more than one person having been appointed Liquidators, each of them shall, if present at the meeting, be entitled to be Chairman or to nominate some other person to be Chairman in priority to the other or others of them according to the order in which they were named in the resolution by which they were appointed:

Provided that if a Liquidator shall have been appointed by the Judge in the place of a sole Liquidator appointed by the Company, the Liquidator so appointed or his nominee shall be Chairman.

707. *Power of Chairman.*—The Chairman of the meeting shall have power to adjudicate upon the right of a creditor to vote and the amount for which he should be allowed to vote.

708. *Vote of a Secured creditor.*—For the purpose of voting, a secured creditor shall, unless he surrenders his security, lodge with the Liquidator, before the meeting, a statement giving the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote in respect of the balance (if any) due to him after deducting the value of his security. The vote of a secured creditor who has not complied with this Rule shall not be counted at the meeting.

709. *Liquidator prohibited from canvassing.*—No Liquidator shall directly or indirectly solicit or canvass any person for the purpose of obtaining votes or proxies in his favour. No person contravening this Rule shall be appointed Liquidator and any Liquidator who shall be proved to have contravened this Rule may be removed if the Judge thinks fit.

710. *Proceedings not to be invalidated by non-receipt of notice.*—Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting shall, unless the Court otherwise orders, be valid notwithstanding that one or more creditors or contributories may not have received the notice sent to them.

## SECTION L.

### *Information as to pending liquidations.*

711. *Liquidator's statement under section 244.*—Statements with respect to the proceedings in and the position of a liquidation of a company under section 244 of the Act, shall, until the winding up is completed, be filed in Court or with the Registrar of Joint Stock Companies, as the case may be, once in each year at intervals of twelve months as follows:—

- (a) The first statement commencing at the date when a Liquidator was first appointed and brought down to the end of twelve months from the commencement of the winding up, shall be filed within thirty days from the expiration of such twelve months, or within such extended period as the Judge may sanction, and the subsequent statements, shall be filed at intervals of twelve months, each statement being brought down to the end of the twelve months for which it is filed.
- (b) If a Liquidator resigns, he must file a statement up to the date of his resignation.
- (c) Every statement shall be in the prescribed form and shall be verified by an affidavit in prescribed form.

712. *Right of creditors and contributories to inspect statements filed under sections 177 A and 244 of the Act.*—Any creditor or contributory of a company which is being wound up shall be entitled to inspect the statement filed under section 177-A or the statement filed under section 244 of the Act on payment of a fee of three rupees and to receive a copy thereof or extract therefrom on payment of the usual charges for supplying copy.

713. *Statements under sections 208 D and 209 G of the Act.*—The statement to be laid before the meeting summoned under sections 208-D and 209-G of the Act shall, in the case of the first statement, be a statement similar in all respects to the first statement filed in Court or with the Registrar of Joint Stock Companies, as the case may be, under Rule 711 and subsequent statements shall be similar in form to the first statement, but shall commence at the date when the last previous statement terminated and be brought down to the end of twelve months from such date.

714. *Returns under sections 208-E and 209-H (3).*—The returns to be made under sub section (3) of section 208-E and sub-section (3) of section 209-H of the Act shall be in the prescribed forms.

### SECTION M.

#### *Declaration of Solvency.*

715. *Declaration of solvency.*—The declaration of solvency under section 207 of the Act shall be in the prescribed form.

#### *Notice of Appointment of Liquidator in a Voluntary Winding up*

716. *Notice of appointment of liquidator in a voluntary winding up.*—The notice of appointment of liquidator in a voluntary winding up to be filed with the Registrar of Companies under section 214 of the Act shall be in the prescribed form.

#### *Unclaimed Funds and undistributed Assets in the Hands of a Liquidator in a voluntary winding up.*

717. *Filing of a copy of statement furnished to the officer of central Government.*—The Liquidator shall, when making any payment under section 244-B of the Act, file in Court a copy of the statement furnished to the officer of the Central Government in accordance with the provisions of section 244 B (2) of the Act.

718. *A claim to any moneys paid in the Reserve Bank to be by petition.*—An application by a person claiming to be entitled to any part of the moneys paid into the Reserve Bank by a Liquidator in accordance with section 244-B of the Act shall be made by petition.

#### *Termination of Winding up Proceedings.*

719. *Termination of winding up proceedings.*—Upon the termination of the proceedings for the winding up of a company the official Liquidator shall file a final account to which in the event of there being a balance in his hands, there shall be attached a statement signed by the Official Liquidator setting out the names

and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto. Upon the passing of such account the balance in his hands (if any) shall be certified by the Judge; and upon payment by the Official Liquidator of such balance in accordance with the provisions of section 244-B of the Act, the recognizance entered into by the Official Liquidator and his sureties shall be vacated. Such certificate shall be in the prescribed form.

720. *Dissolution of company.*—When the Official Liquidator has passed his final account, and such balance has been duly paid, the Official Liquidator shall apply to the Judge for an order that the company be dissolved. Such order shall be in the prescribed form.

721. *Disposal of company's records.*—Upon such order being made all documents and books of account or records of the Official Liquidator shall be deposited in Court unless the Judge otherwise directs. Unless otherwise directed, the books and papers of a company which has been wound up shall be destroyed after a period of three years from the date of deposit in Court.

**Transfer of winding up Proceedings.**

722. *Transfer of proceedings from District Court to High Court*—A Judge of the High Court may, at any stage of any proceeding under the Act pending in a District Court, for good cause shown, order such proceeding to be transferred to the High Court.

723. *Applications for transfer of winding up proceedings.*—Applications under section 164 or section 165 of the Act or under Rule 724 as the case may be, shall be made by petition verified by affidavit. Upon the filing of such an application the Registrar shall give such orders and directions as the nature of the case may require and shall fix a date for hearing.

(2) The application may be made *ex parte*, but the Judge may adjourn consideration thereof and direct notice to be given to such person or persons as he may think fit.

724. *Form of order.*—An order for transfer of winding up proceedings shall be in the prescribed forms, as the nature of the case may require.

**Suits and Proceeding in which a Company in Liquidation, by or under the Supervision of the Court is a Party**

725. *Suits and proceedings in which a company in liquidation, by or under the supervision of the Court, is a party.*—Upon the making of an order by the High Court for the winding up of a Company by or under supervision of the Court, all suits and proceedings to which the company is or shall be a party then pending, or thereafter instituted, in, or transferred to the High Court shall be assigned to and placed in the list of the Judge for the time being exercising jurisdiction under the Act in respect of such company.



## Applications under Section 281 of the Act.

726. *Application under section 281.*—An application under section 281 of the Act shall be by petition verified by an affidavit, and shall be made on notice to the company or, where the company is being wound up, to the Liquidator.

## Taxation of Costs

727. *Taxation of costs.*—Where an order is made by the High Court for the payment of any costs, the taxation thereof shall be made by the Taxing Officer, except in cases where a sum in lieu of taxed costs is fixed by the order.

728. *Application of Rules to proceedings in the subordinate courts.*—The Rules contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the Act in the subordinate courts.

## SCHEDULE TO CHAPTER XXVIII.

List of annexures to be filed with petitions.

(Rule 527)

- |   |   |
|---|---|
| (1) Petition under section 12 of the Act for alteration of the Memorandum of Association.     | (1) A true copy of the Memorandum of Association.   |
|   | (2) A true copy of the notice calling the meeting.  |
|   | (3) A true copy of the special resolution sanctioning the alteration.                             |
| (2) Petition under section 54 of the Act for sanctioning reorganization of share capital.     | As in item (1).   |
| (3) Petition under sections 55 and 56 of the Act for sanctioning reduction of share capital.  | As in item (1).   |
| (4) Petition under section 105A of the Act for sanctioning the issue of shares at a discount. | As in item (1).   |
| (5) Petition under section 153 of the Act for sanctioning compromise.                         | (1) A true copy of the memorandum of Association.   |
|   | (2) A true copy of the compromise.  |
|   | (3) A true copy of the resolution adopting the compromise.  |
|   | (4) A report of the proceedings of the meeting ordered by the Court under section 153 of the Act. |

- (6) Petition for winding-up under section 166 of the Act. In the case of a petition filed by the Registrar of Joint Stock Companies, a true copy of the order of Government sanctioning the filing of the petition.

In the case of a petition filed by the Company, a true copy of the Special Resolution resolving that the company be wound-up by Court.

- (7) Petition under section 247 of the Act for the restoration of a company. A true copy of the order striking out the Company's name from the register.
- (8) Petition under section 267 of the Act to sanction the alteration in the form of constitution. (1) A true copy of the deed of settlement.  
(2) A true copy of the proposed Memorandum and Articles of Association.  
(3) A true copy of the special resolution sanctioning the substitution.  
(4) A true copy of the notice calling the meeting.

## CHAPTER XXIX

Rules under the Banking Companies Act, 1949.

729. *Applications relating to Banking Companies.*—(1) An application under Part III or Part III-A of the Banking Companies Act, 1949 (hereinafter in these rules referred to as "the Act") in respect of a Banking Company having its registered office or, in the case of a company incorporated outside India, its principal place of business, within the State of Rajasthan, shall be filed in the Office of the Registrar, High Court.

*General Headings.*—(2) Applications under Part III or Part III-A of the Act shall be instituted in the matter of the Act and in the matter of the Banking Company and where necessary in the matter of the Act under which the Banking Company has been ordered to be wound up.

*Presentation and hearing of petitions under Part III or III-A of the Act.*—(3) An application under Part III or Part III-A of the Act shall be made by petition and shall be signed and verified in the same manner as a plaint. The petition shall be supported by an affidavit and shall be presented to the Judge taking company winding up matters or to such other Judge as the Chief Justice may direct. The Judge may reject the application summarily or pass such orders and give such directions as he may deem proper inclu-

ding directions for notice of the petition being given to such person or persons as may seem to him likely to be affected by the proceedings.

*Notice of petition.*—(4) Where a notice is directed to be given to any party, it shall be served together with a copy of the petition and the petition shall not be heard until fourteen days after the service of the notice, unless the Judge otherwise directs.

730. *General duties and powers of the Special Officer.*—Without prejudice to the generality of the powers of the court under section 37 (3) of the Act:—

(a) A Special Officer appointed under section 37 (3) of the Act shall furnish security in such amount as may be ordered by the court.

(b) He shall generally have all the powers and shall take all the steps to do all the things necessary or expedient to protect the rights and interests of all the creditors and share-holders of the Banking Company and to conserve and ensure the proper disposition according to law of the assets of the Banking Company.

(c) The Special Officer may be empowered to represent the Banking Company in proceedings before any court, Tribunal or Public Officer.

(d) The Special Officer may apply to the court for such directions as he may deem necessary.

(e) The Special Officer shall, where his duties so require, maintain proper accounts.

(f) The Special Officer shall be paid such remuneration as may be determined by the court, which shall be paid, unless the court otherwise directs, from the assets of the Banking Company.

(g) The Special Officer shall continue to supervise the affairs of the Banking Company until he is removed, office, or the term of his appointment terminates, or until the Banking Company resumes business, or until a Liquidator is duly appointed to wind up the business of the Banking Company.

731. *Inspection of the Report of the Reserve Bank of India.*—No person, other than the parties to the proceedings and the Official Liquidator, shall be entitled to inspection of any report made by the Reserve Bank of India or be entitled to receive a copy thereof, without an order of the court.

732. *Applications in winding up to be by petition.*—(1) Applications for the determination of all questions of priorities and all other questions what soever, whether of law or fact, which may relate to or arise in the course in the winding up of Banking Company, shall be made by petition. The petition shall contain a statement of facts relied on and the nature of the relief asked for. The petition shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit.

*Notice by petition.*—(2) Petitions mentioned in the last preceding [sub-rule] shall be presented to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct. The Judge shall direct notice of the petition to be given to the respondent or such person or persons as may seem to him likely to be affected by the proceedings such notice shall be served together with a copy of the petition and the petition shall not be heard until fourteen days after service of the notice, unless the Judge otherwise directs.

*Affidavit in answer.*—(3) An answer to the petition mentioned in the [sub-rule (1)] shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his attorney or advocate at least two clear days before the returnable date of the notice.

*Directions for the hearing of the petitions*—(4) On the date fixed for the hearing of the petition, the court may proceed to hear the petition or give such directions as it may think proper as to discovery and inspection, examination of witnesses in court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the petition.

733. *Transfer of suits and proceedings to the High Court.*—(a) When the Official Liquidator submits to the Court a report under section 45 C(2) of the Act, he shall apply to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct, for directions as to the parties to whom notice may be given and the date and time for holding an inquiry whether or not the suits and proceedings mentioned in the report should be transferred to the High Court. The notice shall contain particulars of the suit or proceeding in which the party may be concerned and require him to appear and show cause why it should not be transferred to the High Court. The notice shall be served fourteen days before the date appointed for holding the inquiry.

*Affidavit in reply*—(b) Any party desiring to oppose the transfer of the suit or proceedings to the High Court shall file an affidavit and furnish a copy thereof to the Official Liquidator or his attorney or advocate at least two clear days before the returnable date of the notice.

*When proceedings not transferred, Court may request expedition of the same.*—(c) If any proceeding pending in any court is not transferred to the High Court under section 45-C (3) the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or such other Judge as the Chief Justice may direct, may issue directions to the Registrar to write a letter or request to the court in which the proceedings is pending, request-

ting that the proceeding may be disposed of as expeditiously as possible.

734. *List of Debtors.*—(a) When the Official Liquidator files in the court a list of debtors under section 45-D (2) of the Act; he shall obtain an appointment from the Judge from the time being dealing with the proceedings for the winding up of the Banking Company or from such other Judge as the Chief Justice may direct, to settle the same and shall give notice in writing of such appointment to every person mentioned in such list. The notice shall contain such of the particulars mentioned in the list of debtors as are applicable to such person. In case any variation or addition to such list is made by the official Liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notices shall be served four weeks before the date appointed to settle such list, variation or addition.

(b) *Service of notice.*—Service of notice upon the debtors shall be effected by sending the notice through the post by a Registered letter or if the Judge so directs under certificate of posting. The notice shall be addressed to the party to his last known address or place of abode and such notice shall be considered as served at the time the same ought to be delivered in due course of delivery by the Post Office and notwithstanding the same may be returned by the Post Office.

(c) *Affidavit in reply.*—If the debtor desires to show cause against the inclusion of his name in the list of debtors, he shall file an affidavit and furnish a copy thereof to the Official Liquidator or his attorney or advocate at least seven days before the day appointed for the settlement of the list.

(d) *Settlement of the list of debtors.*—On the date fixed for settlement of the list of debtors the court may settle the list or such part thereof as it may think proper. If the court is of opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, it may give such directions as it may think proper to discovery and inspection, examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy adjudication of the debt. The Court may in a special case refer the Official Liquidator to a regular suit.

735. *Official Liquidator to report if he contests claims of depositors.*—If the Official Liquidator desires to contest a claim shown in the books of the company as due to a depositor on the ground that there is reason for doubting the correctness of any particular entry in the books he shall make a report to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct stating his reason for doubting the correctness of such entry; and if, upon such report the Court is satisfied that there is *prima*

*facie* reason for doubting the correctness of the entry, the Judge may cause notice to be given to depositor concerned to come in and prove his claims.

736. *Register of suits in winding up matters.*—(a) Suits in respect of claims made by or against any Banking Company in Liquidation including claims by or against any of its branches in India which are filed in the High Court or transferred to it under the Act shall be entered in separate list to be maintained by the office of the Registrar and shall be treated as expedited suits. If such suits have been filed before the date of the order for winding up, the Official Liquidator shall furnish to the Registrar a list of such suits.

(b) *Hearing of suits and matters*—All suits referred to in the preceding [Sub-rule] and all matters and proceedings connected with the suits shall be heard by the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or by such other Judge as the Chief Justice may direct.

(c) *Procedure in such suits.*—Where the suit is filed as a summary suit, the procedure prescribed for summary suits shall be followed. In all other cases, the suits shall be filed as a long cause and the following procedure shall be followed :—

Within ten days of the service of the writ of summons or such longer period as the Judge may direct on the application of the plaintiff in that behalf, the plaintiff shall take out a summons for directions and the Judge shall give such directions as he may think proper as to filing the written statement and counter claim if any, or points of defence, discovery, inspection, examination of witnesses in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the suit.

737. *Application for inspection of records.*—The Reserve Bank of India may apply to the Judge for the time being dealing with the proceedings for the winding up of a Banking Company or to such other Judge as the Chief Justice may direct, for permission to inspect the records of the Banking Company or of the High Court in the matter of the Banking Company, and such permission may be granted by the Judge in his direction.

738. *Recovery of dues as arrears of revenue.*—When the Court grants leave under section 45-T (3) of the Act for recovery of any amount found due to the Company, the Official Liquidator may apply to the proper Revenue Authorities to recover the said amount as an arrear of land revenue.

739.—( Deleted )

740. *Rules under Chapter XXVIII to apply unless inconsistent.*—These rules shall be in addition to and not in derogation of rules under Chapter XXVIII of the Rules of the High Court, 1932. In case of inconsistency these rules shall prevail.

### Civil Appeals.

741. (a) *Appeal to the High Court to be heard by Division Court.*—Subject to the provisions of section 45-N (1) of the Act, an appeal shall lie from an order or decision of Judge in a Civil proceeding under the Act to the High Court.

(b) The appeal shall be heard by a Division Court consisting of two Judges or more than two Judges, if the Chief Justice so directs, other than the Judge whose decision is appealed from.

2. *Period within which appeal should be filed.*—The appeal shall be filed within 20 days from the date of the decree or order appealed from.

3. *Appeals.*—Rules relating to appeals contained in Part II, except Chapter XV of the Rules of the High Court, 1952 shall apply, *mutatis mutandis*, to appeals under section 45-N (1) of the Act.

### Criminal Complaints

742. *Presentation of complaints and issue of process.*—(1) Proceedings under section 45-J of the Act shall commence with a complaint being presented by the Official Liquidator to such Judge as the Chief Justice may direct. On presentation of the complaint the Judge may issue a summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial, or may, if he thinks fit postpone the issue of process for compelling the attendance of the person complained against and may direct an inquiry or investigation to be made by Superintendent of Police or by such other person as he thinks fit, or may dismiss the complaint as he may in his discretion think fit.

(2) *Process in Criminal Cases.*—All complaints shall be filed in the Office of the Registrar and all process shall issue from his office.

(3) All offences punishable under the Act or under the Indian Companies Act, 1913 or under the Companies Act, 1956, may be tried summarily provided they are punishable with imprisonment not exceeding three years with or without fine.

(4) *Procedure in summary trials.*—(a) Where an offence triable under section 45-J (1) is tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of summons cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable. Where, however, the offence to be tried summarily under section 45-J (1) is tried jointly with an offence under section 45-J (2) the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall be applicable provided that it shall not be necessary to adjourn the case under section 256 (1) of the Code of Criminal Procedure before requiring the accused to enter upon his defence or inquiring of him whether he wishes to further cross-examine any witness whose evidence has been taken.

(b) *Procedure in non-summary trials*.—Where the offences triable under section 45-J are not tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable.

5. *Bail*.—The Court may at any time grant bail to the accused on such terms as it thinks proper.

(6) *Accused person to be competent witness*.—Any person against whom a complaint is filed by the Official Liquidator under the Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial: provided that—

(a) he shall not be called or examined as a witness except with his consent;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless—

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his Advocate asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature or conduct of the defence is such as to involve imputations on character of the prosecutor or of any witness for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

(7) *Compounding of offences*.—All offences triable under Part III A of the Act may be compounded with the leave of the court.

### Criminal Appeals

743. *Appeal against conviction*.—(a) Any person convicted on a trial held by a single Judge of the High Court under Section 45-J of the Act may appeal to the Division Bench:—

(i) against the conviction on any ground of appeal which involves a matter of law only.

(ii) with the leave of the Appellate Court or upon the certificate of the Judge who tried the case that it is a fit case



for appeal, against the conviction on any ground of appeal which involves a matter of fact only or a matter of mixed law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground or appeal; and

(iii) with the leave of the Appellate Court, against the sentence passed unless the sentence is one fixed by law.

(b) *Appeal against acquittal*.—The Official Liquidator may appeal to the High Court against any order of acquittal on any ground of appeal which involves of law only.

(c) *Period of limitation*.—An appeal under the preceding sub-rules shall be filed within 30 days from the date of the order appealed from.

(d) *Application to the trial Judge for a certificate*.—An application to the Judge who tried the case for a certificate that it is a fit case for appeal may be made either orally at the end of the trial or by petition giving the grounds on which such certificate is sought and showing that the period of limitation for the appeal has not expired.

(e) *Appeal to be filed with the Registrar*.—Appeals shall be filed in the office of the Registrar.

(f) *Memorandum of appeal*.—The memorandum of appeal shall be made in the form of a petition giving the grounds of objection numbered consecutively, and the grounds upon which the leave, if any, of the Appellate Court is sought. It shall also show that the appeal is within time, and shall be accompanied by a certified copy of the judgement and the sentence or order of the Court, and also of the certificate of the Judge who tried the case that it is a fit case for appeal, when such certificate has been given.

(g) *Procedure in appeals*.—On presentation of an appeal, the date of such presentation shall be marked there on, and it shall be accepted, if within time, and placed on a register of appeals to be kept for the purpose. When an appeal to the Registrar to be beyond time, it shall be returned to the party or his advocate, unless the party or his advocate applies for it to be placed before the Court for orders. An application for excusing the delay in presenting the appeal may be made to the Registrar within a fortnight of the date of such return, and such application shall be placed before the Court for orders.

744. *Admission of appeals*.—(a) Applications referred to in [sub-rule (g) of rule 743] together with the memoranda of appeal in question and appeals which have been accepted by the Registrar being within time shall be placed for admission before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judges by whom the original trial was held.

(b) *Application for bail in appeal.*—Applications for bail shall ordinarily be made to the Appellate Court at the time of admission.

(c) *Application for notes of evidence.*—Upon admission of an appeal, the appellant shall apply with due diligence for a certified copy of the notes of evidence and of the requisite documentary exhibits, and shall pay the usual charges, unless the Registrar in his discretion thinks fit to dispense with such payment in whole or in part. Certified copies of the notes of evidence or of the documentary exhibits shall not be supplied before admission of an appeal except with the leave of the trial Judge.

(d) *Paper books to be prepared by appellant.*—Appeal paper books shall be prepared by the appellant and shall be printed except where such printing is dispensed with by the Appellate Court in which case the appeal paper books shall be type-written.

(e) *Contents of Paper books.*—The appeal paper book shall contain the following papers arranged in two parts in the same volume where practicable in the following order:—

*Part I:—*

- (1) Complaint.
- (2) Charge or charges against the accused in trial court.
- (3) Notes of evidence including statement of the accused.
- (4) Judgement including sentence or order.
- (5) Certificate of the Judge who tried the case, if any.
- (6) Order of the Appellate Court granting leave, if any.
- (7) Memorandum of Appeal.
- (8) Order admitting the appeal.
- (9) Such other papers as may be deemed necessary by the Registrar.

*Part II:—*

*Exhibits.*

(f) *Filing of paper books.*—Within six weeks of the admission of an appeal except where the time has been extended by the Court, the appellant shall file two or more copies of the appeal paper book as may be required by the Registrar in his office and shall also furnish two copies to the respondent.

(g) *Hearing of appeals.*—After the appeal paper books have been filed, the appeal shall be set down for hearing and final disposal before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judge by whom the original trial was held.

(h) *Procedure on default of filing or paper books.*—Where the appellant, after admission of an appeal, does not diligently prosecute the appeal and does not file copies of the appeal paper book as required, the appeal shall be placed before the Appellate Court for dismissal. The Appellate Court may dismiss the appeal or pass such order as it may think fit.

## MISCELLANEOUS

745. *Section 5, Limitation Act applicable.*—(1) The provisions of section 5 of the Indian Limitation Act shall apply to appeals Civil or Criminal under the Act

(2) *Code of Civil Procedure, Code of Criminal Procedure & High Court Rules to apply.*—The provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the Rules of the High Court, 1952, unless inconsistent with these rules shall apply *mutatis mutandis* to civil and criminal proceedings and appeals under these rules.

### Notes

Previously rules under this chapter were formed in pursuance of powers conferred by section 45G of the Banking Companies Act, 1949.

New rules 729 to 745 in place of the former ones have now been framed in pursuance of Powers conferred by Section 45 V and Section 45N (2) of the Banking Companies Act, 1949 and Section 129 of the Code of Civil Procedure 1908 and therefore old rules stand substituted by the present rules vide notification No. C.

These rules have come into force from the date of their publication in the Gazette i.e. November 26, 1959.

In Sub-rule (2) of rule 732 words "Sub-rule" appearing in brackets have been substituted for the previous word "rule" vide notification No. I.

Similarly words and figures "Sub-rule (1)" appearing in brackets in sub-rule (3) of rule 732 have been substituted for the previous words "foregoing sub-rule" vide notification No. I and likewise words "sub-rule" appearing in brackets in Sub-rule (b) of rule 736 have been substituted for the previous word "rule" vide notification No. I.

Rule 739 which stood, as under, vide notification No. C has not been deleted vide notification no. I.

739. *Supervision of carrying out of compromise or arrangement.*—Where an order under section 391 of the Companies Act, 1956 (Act I of 1956), sanctioning a compromise or arrangement in respect of a Banking Company is passed, the Judge may direct the Official Liquidator or any other person to supervise the carrying out of the compromise or arrangement and to make a report to the Court in regard thereto.

Sub-rule (3) of rule 742 which stood, as under, vide notification no. E has now been substituted by the present one vide notification no. I.

(3) *What offences to be tried summarily.*—Offences punishable under the Companies Act, 1956 (Act I of 1956), or under the Banking Companies Act, 1949 (Act X of 1949), with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees may be tried in a summary way.

An offence triable under section 45-J (2) of the Act jointly with the offences mentioned in this rule may also be tried summarily provided that it is punishable with imprisonment for a term which does not exceed two years or with fine which does not exceed one thousand rupees.

Words 'sub-rule (g) of rule 743' appearing in brackets in clause (a), of rule 744 have now been newly added for the Previous words "the Preceding sub-rule" vide Notification No. I.

## CHAPTER XXX

### Testamentary and Intestate Jurisdiction

#### *Notes.*

The rules in this Chapter have been framed for regulating the proceedings under Chapter IV of Part IX of the Indian Succession Act, 1925. The said Chapter governs the practice regarding the grant and revocation of Probates and Letters of Administration.

Section 300 of this Act provides that the High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers conferred upon the District Judges under Chapter IV of Part IX of the Act. These rules have, therefore, been made applicable to the proceedings under the Act in the Subordinate Courts also.

#### Section A

##### *Preliminary.*

746. *Definitions.*—In this chapter unless the context otherwise requires—

(i) "The Act" means the Indian Succession Act, 1925; (Act of 1925).

(ii) 'Will' includes a codicil.

747. *General Headings & Forms.*—The following shall be used as general headings in all cases under the Act or this Chapter;

*In the High Court of Judicature at Jodhpur/Jaipur Bench*

#### Testamentary & Intestate Jurisdiction.

TESTAMENTARY  $\frac{\text{CASE}}{\text{SUIT}}$  No.                      of                      19

In the matter of the goods of ..... deceased.

#### Section B

##### *Non-contentious Business.*

748. *Non-contentious business.*—Non contentious business shall include the business of obtaining probate and letters of adminis-

tration (with or without the will annexed, and whether general, special or limited) where there is no contention as to the right thereto, or where there has been contention, the contest is terminated, and all *ex parte* business to be taken in the Court in matters of testacy and intestacy, not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or letters of administration.

749. *Notice to Board of Revenue.*—The Registrar shall give notice of every application for probate or letters of administration to the Board of Revenue within one week of the filing of the application.

750 *Application for probate.*—An application for probate shall be made by petition with the will annexed, accompanied if the will is not in English or Hindi, with an official translation thereof in English and such application shall contain an undertaking that an inventory and account will be filed within six and twelve months respectively after the date of issue of the probate. The petition shall be in the prescribed form or as near thereto as the circumstances of the case may permit and shall be accompanied by :—

- (a) an affidavit of one of the attesting witnesses, if procurable (form prescribed); and
- (b) an affidavit of valuation in the form set forth in Schedule III to the Court Fees Act, 1870, as adapted to Rajasthan.

751. *Application for letters of Administration.*—An application for letters of Administration shall be made by petition in the prescribed form or as near thereto as the circumstances of the case may permit and shall be accompanied by annexure (b) mentioned in the last proceeding Rule.

752. *Application for Letters of Administration with will annexed.*—An application for Letters of Administration with the will annexed shall be made by petition in the prescribed form or as near thereto as the circumstances of the case may permit. It shall set out the names and addresses of the Legal representatives of the deceased (unless the Court fees fit to dispense with the statement thereof), and shall be accompanied by the annexures referred to in Rule 751.

753. *Certificate that no other grant has been made.*—Within fourteen days of the filing of an application for probate or letters of administration the Registrar shall certify (if such can be the case) that no intimation has been received by the Court from any other High Court or any District Court, of any grant of probate or of

letters of administration of the property and credits of the deceased having effect through out the territory of India.

Such certificate shall be made on the order sheet and shall be in the prescribed form.

754. *Certificate as to Court fee.*—No order for the issue of a grant of probate or letters of administration shall be made until after the Registrar has certified either that the court-fee payable on the grant has been paid or that no court-fee is payable. Such certificate shall be made on the order sheet and shall be in one of the prescribed forms.

755. *Proof of identity.*—The Judge may, in cases where he deems it necessary, require proof, in addition to the usual statement required to be made in the petition, of the identity of the deceased or of the party applying for the grant.

756. *Interlineations, alterations, etc., in the will to be sworn to by the attesting witnesses.*—When interlineations, alterations, erasure or obliterations appear in the will (unless duly executed as required by the Act or recited in or otherwise identified by the attestation clause) a statement shall, if possible, be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.

757. *In absence of attesting witnesses what other evidence must be produced.*—If no affidavit by any of the attesting witnesses is procurable, an affidavit shall be procured (if possible) from some other person (if any) who may have been present at the execution of the will; but if no affidavit of any such person can be obtained, evidence on affidavit must be procured of that fact and of the handwriting of the deceased and one attesting witness, and also of any circumstances which may raise a presumption of favour in due execution.

758. *Attempted cancellation must be accounted for.*—Any appearance of an attempted cancellation of a testamentary writing by burning, tearing, obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof, must be accounted for.

759. *Unsigned or unattested will.*—In cases in which it is not necessary that a will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testator's intention that it should operate as his testamentary disposition must be clearly proved by affidavit.

760. *Renunciation.*—No person, who renounces probate of a will or letters of administration of the property of a deceased person in one character, shall, without the leave of Judge, take out representation to the same deceased in another character

761. *Application for administration by creditor.*—In all applications by a creditor for letters of administration, it shall be stated particularly, how the debt or debts arose, the amount due on

the date of the application, and whether the applicant has any and what security therefor.

762. *Production of deed, paper, etc, referred to in will*.—If a will contains a reference to any paper, memorandum, or other document of such a nature as to raise a question whether it ought not to form a constituent part of the will, such paper, memorandum or other document should be produced with a view to ascertain whether it is entitled to probate, and where not produced, its non-production must be accounted for.

763. *Persons consenting to an application for letters of administration shall do so on affidavit*.—Persons desiring to give their consent to an application for letters of administration shall do so on affidavit, stating their relationship to the deceased and that they consent to the grant of letters of administration to the petitioner.

764. *Citation to rightful parties*.—On an application for letters of administration, unless otherwise ordered by the Judge or Registrar, a citation shall issue to all persons having a right to take the grant prior or equal to that of the applicant, unless such persons have signed their consent to the application.

765. *Citation on application by creditor*.—Where letters of administration are applied for by a creditor, a special citation shall be issued to the widow, if any, and to the next of-kin, provided they shall be resident within the jurisdiction or have any known agent or agents resident within the jurisdiction, and to the Administrator General of Rajasthan, and a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.

766. *Citations*.—All citations shall, unless otherwise ordered, direct the persons cited to show cause on such cause on such day certain as the Judge shall direct and shall be in the prescribed form and, where they cannot be served in the manner provided for service of process, may be served by the insertion as an advertisement in such newspapers as may be directed, of a notice in the prescribed form.

767. *Proof of publication*.—Proof of due publication of a citation by advertisement shall be by affidavit, unless the Judge or Registrar has directed that such citation be published once only in a single newspaper in which case a copy of the issue of the newspaper containing the said advertisement may be filed in lieu of an affidavit. The affidavit shall be in the prescribed form or as near thereto as circumstances permit.

768. *Proof of power of attorney*.—Unless a power-of-attorney constituting such attorney of an executor absent from the State of Rajasthan can under section 85 of the Indian Evidence Act, 1872, be presumed to have been executed and authenticated as in the said section mentioned, the Court may require further proof of its due execution.

769. *Grant when to have effect in Rajasthan*.—All grants of probate or letters of administration (with or without the will an-

nexed) other than grants under the Administrator-General's Act shall, unless otherwise ordered, be drawn up by the Registrar to have effect within the State of Rajasthan.

770. *Grant when to have effect throughout India.*—In all cases in which it is sought to obtain a grant of probate or letters of administration (with or without the will annexed) to have effect throughout the territory of India, or under the Administrator-General's Act, 1913, to have effect throughout one or more of the other Divisions as defined in that Act, such grant shall be expressly asked for, and it shall be shown where the assets are situated.

771. *Surety Bond.*—The sureties to a bond given under section 291 of the Act shall be approved by the Registrar. Such bond shall in all cases be prepared in the office of the Registrar and shall, unless otherwise ordered by the Court, be given in the amount of the full value of the property for which the grant is to be made less the amount of debts (if any) secured by mortgage of the estate property. The Bond shall be in the prescribed form.

#### Notes

Section 291 of the Indian Succession Act, 1925 provides that:—

(1) Every person to whom any grant of letters of Administration, other than a grant under section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.

(2) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person—

(a) the exception made by sub-section (1) in respect of a grant under section 241 shall not operate;

(b) the District Judge may demand a like bond from any person to whom probate is granted.

772. *Attestation of bonds.*—The execution of administration bonds shall be attested by the Registrar or where executed outside the Court House, by the Registrar or, such gazetted officer as may be nominated by the Registrar for that purpose.

773. *Consequence of neglect to proceed with petition or to furnish security.*—If a petitioner for a grant of probate or letters of administration, for three months from the admission of the petition, neglects to proceed with the petition, or for three months of the date of the order, for grant neglects to give the required security or otherwise to proceed with the application, or to take out the grant, the Registrar shall give notice in writing of his default to the Administrator-General, who may then apply to the Court for an order that the petition be dismissed, and that he may be at liberty to apply for a grant of letters of administration.

If no further steps are taken in the matter, the petition may be posted before the Court for dismissal and the Court may thereupon make such order as it thinks fit.

774. *Schedule of property to accompany certificate under section 274 of the Indian Succession Act or section 24 of the Administrator-General's Act.*—With every certificate to be sent to a High



Court, under the provisions of section 274 of the Act, or section 24 of the Administrator-General's Act, 1913, the Registrar shall send a copy of so much of the schedule of the property and credits of the deceased as relates to the estate within the jurisdiction of such Court.

*Notes.*

Section 274 of the Indian Succession Act, 1925 and section 24 of the Administrator-General's Act, 1913 whereunder the said certificate is required to be sent to the High Court, provide as under :—

274. (1) Where probate or Letters of Administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 273, the High Court or District Judge shall send a certificate thereof to the following Courts, namely:

(a) when the grant has been made by a High Court, to each of the other High Courts;

(b) when the grant has been made by a District Judge, to the High Court which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (1) shall be made as nearly as circumstances admit in the form set forth in Schedule IV, and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 276 and 278, to be situate within the jurisdiction of a District Judge in another State the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same.

24. Probate or letters of administration granted by the High Court [\*\*\*] to the Administrator-General of any Division shall have effect over all the assets of the deceased throughout such Division and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator-General:

Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like effect throughout one or more of the other Division.

Whenever a grant is made by a High Court to the Administrator General with such effect as last aforesaid, the Court shall send to the other High Courts a certificate that such grant has been made, and such certificate shall be filed by the Courts receiving the same.

A grant made by the High Court at Rangoon before the separation of Burma from India shall have the same effect for the purposes of this section as it would have had if the separation had not taken place.

775. *Extension of grants.*—A grant (a) under the Act having effect within Rajasthan or (b) under the Administrator-General's Act, 1913, within Rajasthan may be amended so as to extend its effect in case (a) throughout the territory of India or in case in (b) throughout one or more of the other Divisions as defined in that Act. The application shall be by petition supported by a further affidavit of valuation in the form set out in Schedule III to the Court Fees Act, 1870, as adapted to Rajasthan, with such variations as the circumstances may require, and on payment of the probate duty payable in respect thereof, and in case of grant of letters of administration with or without the will annexed, on the petitioner giving a further bond, the grant may be amended accordingly.

776. *Inventory and Account.*—The inventory and account to be furnished by an executor or administrator under section 317 of the Act shall be in the prescribed forms, and shall be verified in the manner following:

"I....., the executor (or administrator) named in the above inventory, do hereby declare that the said inventory is in every respect true, perfect and correct to the best of my knowledge, information and belief and that the same contains a full, true and perfect inventory of all the property in the possession of the deceased, at the date of his death, and of all credit owing to him, and of all debts owing by him;" or

"I ... .., the executor (or administrator) named in the above account do hereby declare that the said account is true, perfect and correct to the best of my knowledge, information and belief, and that it gives a full, true and perfect account of all the estate and the effects of the deceased ....., which has or have come into my hands, possession, power, control, custody or knowledge, and of the disposition of the same."

### SECTION C

#### CONTENTIOUS BUSINESS.

777. *Caveats.*—Any person intending to oppose the issuing of a grant of probate or letters of administration must either personally or by his advocate file a caveat in the Court in the prescribed form. Notice of the filing of the caveat shall be given by the Court to the petitioner or his Advocate (form prescribed).

778. *Affidavits in support of caveat*—Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, the affidavit or affidavits in support shall be filed within fourteen days of the caveat being lodged. Such affidavit shall state the right and interest of the caveator, and the ground of the objections to the application.

779. *When caveat is entered before application for grant is filed.*—Where an application for grant of probate or letters of administration with or without the will annexed is presented after a caveat has been filed, the Registrar shall forthwith issue notice to the caveator, calling upon him to file his affidavit or affidavits in support of the caveat within fourteen days from the service of such notice.

780. *Consequence of non-compliance.*—Where the caveator fails to file any affidavit in support of his caveat, in compliance with Rule 778 or in compliance with the notice issued under Rule 779, the caveat may be discharged by an order to be obtained on application to the Court.

781. *Conversion of application into suit.*—Upon the affidavit in support of the caveat being filed (notice whereof shall immediately be given by the caveator to the petitioner), the proceedings shall be numbered as a suit in which the petitioner for probate or

letters of administration shall be the plaintiff, and the caveator shall be the defendant, the petition for probate or letters of administration being registered as and deemed a plaint filed against the caveator, and the affidavit filed by the caveator being treated as his written statement in the suit. The procedure in such suit shall, as nearly as may be, be according to the provisions of the Code.

782. *Proof in solemn form.*—The party opposing a will may, with his affidavit, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law, and only intends to cross-examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall not in any event, be liable to pay the costs of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.

783. *Trial on preliminary issue.*—The Court may, on the application of the petitioner before directing that the proceedings be numbered as a suit, direct the trial of an issue as to the caveator's interest. Where upon the trial of such issue, it appears that the caveator has no interest, the Court shall order the caveat to be discharged, and may order the issue of probate or letters of administration, as the case may be.

## SECTION D

### MISCELLANEOUS

784. *Administrator-General's Act, 1913.*—Nothing in this Chapter shall apply to application to be made or acts to be done by the Administrator-General, in so far as they conflict with the provisions of the Administrator-General's Act, 1913.

785. *Application of Rules to sub-ordinate Courts*—The rules contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the Act in subordinate Courts.

## CHAPTER XXXI.

### ARBITRATION RULES.

#### *Notes.*

These Arbitration Rules have been framed in pursuance of the powers conferred by section 44 of the Arbitration Act, 1940. The enabling section reads as under:—

The High Court may make rules consistent with this Act as to—

- (a) the filing of awards and all proceedings consequent thereon or incidental thereto ;
- (b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto ;
- (c) the staying of any suit or proceedings in contravention of arbitration agreement ;
- (d) the forms to be used for the purposes of this Act ;
- (e) generally, all proceedings in Court under this Act.

786. *Preliminary.*—The Rules contained in this Chapter are made under section 44 of the Arbitration Act, 1940, hereinafter referred to as the Act.

787. *Presentation of applications under the Arbitration Act, 1940*—All applications under the Act shall be made by petition and shall be presented to the Court in the same manner as a plaint or other application. The petition shall be verified in the same manner as a plaint and shall, if necessary, be supported by an affidavit.

788. *Form of petition.*—The petition shall be divided into paragraphs, numbered consecutively, and shall contain the name, description and place of residence of the petitioner as well as the opposite party and a statement in summary form—

- (a) of all material facts;
- (b) of facts showing that the Court to which the application is presented has jurisdiction; and
- (c) of the nature of the relief asked for; and shall specify the names, descriptions and places of residence of other persons likely to be affected by it.

789. *Statements of special case under section 13 (b) of the Act*—(1) In a reference under section 13 (b) of the Act the question of law on which the opinion of the Court is sought and the facts out of which it arises shall be distinctly stated. A copy of the arbitration agreement, if any, shall be annexed to such reference. The arbitrators or umpire making the reference shall give notice of the action taken by them to the parties concerned.

#### *Notes*

Section 13 of the Arbitration Act authorises the Arbitrators or Umpire to State a special case for the opinion of the Court on any question of law involved, or State the award wholly or in part, in the form of a special case, all such questions for the opinion of the Court.

This sub-rule prescribes the procedure in this regard.

(2) When the Court has pronounced its opinion under section 14 (3) of the Act, a copy thereof shall be sent to the arbitrators or umpire making the reference and they shall have such opinion added to and made part of the award.

790. *Cases to be treated as suits or miscellaneous cases.*—A case in which the award is filed under section 14(2) or an application made under section 20 (1) of the Act shall be numbered and registered as a suit. Other applications under the Act shall be numbered registered as a miscellaneous case.

#### *Notes.*

The rules 790 to 793 are meant to meet the requirements of section 14 of the Arbitration Act, 1940 which reads as under:—

(1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, together with any depositions and documents which may have been taken and proved before them, to be filed in Court and the court shall thereupon give notice to the parties of the filing the award.

(3) Where the arbitrators or umpire state a special case under clause (b) of section 13, the Court after giving notice to the parties and hearing them, shall pronounce its opinion thereon and such opinion shall be added to, and shall form part of the award.

791. *Issue of notice.*—After a petition has been presented, the Court may, if it is not in order or according to law, reject it. If it is not so rejected the Court shall direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to it to be likely to be affected by the proceedings, requiring all or any of such persons to show cause, within the time specified in the notice, why the relief sought in the petition should not be granted. Such notice shall be accompanied by copies of the petition and the affidavit, if any, copies being supplied by the petitioner.

792. *Payment of process fees.*—(1) The petitioner shall deposit the necessary process fees for service of notice on the other parties concerned within seven days of the order directing the issue of notice or within such further time as the Court may, for sufficient cause shown, allow.

(2) The party who may have requested the arbitrators or umpire under section 14 (2) of the Act to cause an award to be filed shall, within seven days after the filing of the award or within such further time as the Court may, for sufficient cause shown, allow, deposit the necessary process-fees for the service of notice on the other parties concerned.

793. *Mode of filing the award.*—(1) Where the award is filed by the arbitrators or umpire under section 14 (2) of the Act, they shall send to the Court under sealed cover the award or a signed copy thereof together with any proceedings or depositions and documents which may have been taken and proved before them and the opinion pronounced by the Court on the special case under section 14 (3) of the Act, if any. They shall also send with the award a copy of the notice given to the parties concerned under section 14 (1) of the Act. If the sealed cover is sent by post, it shall be sent under registered cover.

(2) Where the award is filed by a party to the arbitration, any party may move the court to direct the arbitrators or umpire to produce before it any proceedings or depositions and documents which may have been taken and proved before them, which may be in their possession.

794. *Application under section 20 (1) of the Act.*—Every application under section 20 (1) of the Act shall be accompanied by a copy of the arbitration agreement.

#### *Notes*

Section 20 of the Arbitration Act, 1940 provides that,—

(1) Where any persons have entered into an arbitration agreement before the institution of any suit with respect to the subject-matter of the agreement or any part of it and where a difference has arisen to which the agreement applies they or any of them, instead of proceeding under Chapter II, may apply to a Court having jurisdiction in the matter to which the agreement relates that the agreement be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs and the remainder as defendant or defendants, if the appli-

cation has been presented by all the parties or if otherwise, between the applicant as plaintiffs and the other parties as defendants.

(3) On such application being made the Court shall direct notice thereof to be given to all parties to the agreement other than the applicants requiring them to show cause within the time specified in the notice why the agreement should not be filed.

(4) Where no sufficient cause is shown, the Court shall order the agreement to be filed, and shall make an order of reference to the arbitrator appointed by the parties whether in the agreement or otherwise, or where the parties cannot agree upon an arbitrator, to an arbitrator appointed by the Court.

(5) Thereafter the arbitration shall proceed in accordance with, and shall be governed by the other provisions of this Act so far as they can be made applicable.

*795. Issue of processes at the request of arbitrators or umpire—*

(1) The court shall cause processes to be issued to the Parties to an arbitration proceeding or to witnesses on the written request of the arbitrators or umpire.

(2) If the proceedings are under Chapter II of the Act, the request for the issue of such processes shall be accompanied by a copy of the agreement under which the arbitrators or umpire are acting.

*796. Court fees and process fees.*—Court fees and process fees chargeable with respect to all matters under the Act, shall, as nearly as may be, in accordance with the provisions of the Court-fees Act, 1870, as adapted to Rajasthan, and the Rules for the time being in force relating to the payment of such fees on the original side.

*797. Procedure.*—In matters not provided for in this Chapter, the provisions of the Code and any Rules governing the proceedings of the Court shall, so far as may be and with necessary modifications and adaptations, apply to all proceedings including appeals under the Act before the Court.

*798. Proceedings in subordinate courts.*—These Rules shall, with necessary modifications and adaptations, also apply to proceedings under the Act in subordinate courts.

## CHAPTER XXXI A

798A. *Presentation of petition to the Registrar.*—An application to deposit a power of attorney must be made by a petition signed by the applicant which must be presented to the Registrar, either by the petitioner in person or by an Advocate of the High Court.

798 B. *Execution of power of Attorney under section 4, clause a of powers of Attorney Act.*—The power of attorney the execution of which shall be verified in accordance with the provisions of section 4, clause (a) of the Powers of Attorney Act, 1882 must be annexed to such petition and will be received for deposit on the Court being satisfied as to its due execution but the Court may, before making an order for its deposit, require further evidence of such execution.

798. C. *Receipt given on an order for deposit being made.*—On an order for deposit being made the power of attorney will be placed on the file of instruments deposited under the said Act and a receipt given for it.

798. D. *Payment of fees for inspection or certified copies of the instrument so deposited.*—Any person desiring to inspect an instrument so deposited or to obtain a certified copy or to have a copy certified must pay the fees prescribed in the Table of Fees.

## Table of Fees.

	Rs. np.
1. For application to deposit a power of attorney.	1.00
2. For filing a power of attorney.	2.00
3. For Application for search.	1.00
4. For a certified copy or for authentication of a copy presented as under :—	
(a) For copying or comparing per folio of 90 words.	0.50
(b) Sealing.	2.00

## Notes.

Chapter XXXIA containing rules 798 A to 798 D has been newly added vide Notification No. H.

## CHAPTER XXXII

## Rules under section 16 of the Indian

## Divorce Act, 1869.

*Notes.*

Section 16 of the Indian Divorce Act under which these rules have been framed reads as under:—

Every decree for a dissolution of marriage made by a High Court, not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of counsel and witnesses, and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

799. *Decree nisi*.—A decree *nisi* shall not be made absolute till after expiration of a period of six months or such longer period as may be specially fixed by the Court at the time of the passing of the decree from the pronouncing thereof.

800. *Entering appearance of a person showing cause against decree nisi being made absolute*.—(1) Any person other than the officer appointed under section 17 A of the Indian Divorce Act, 1869, wishing to show cause against a decree *nisi* being made absolute may after obtaining the leave of the Court enter an appearance in the proceeding in which the said decree was pronounced, and



at the same time file an affidavit setting forth the facts upon which he relies.

(2) A certified copy of the affidavit shall thereafter be served upon the party in whose favour the said decree was pronounced or his Advocate and such party may within a time to be fixed by the Court file an affidavit in answer. The person showing cause against the said decree being made absolute may, within a further time to be so fixed, file an affidavit in reply thereto.

801. *Affidavit not required in the case of an officer appointed under Section 17 A of the Divorce Act.*—No such affidavit shall be required when cause is shown by the officer appointed under section 17 A of the Indian Divorce Act.

## CHAPTER XXXII A

### Hindu Marriage & Divorce Rules

#### Notes.

Rules 801 (V) to 801 (v) have been newly inserted vide amending Notification No. 5/S. R. O. dated 23/3/56, published in Rajasthan Raj-patra dated 19/5/56 part IV (c).

Jodhpur, March 23, 1956.

No. 5/S.R.O.—In exercise of the power conferred by sections 14 and 21 of the Hindu Marriage Act, 1955 (Act XXV of 1955) the Hon'ble the Chief Justice and Judges are pleased to make the following Rules for carrying out the purposes of the Act :—

801 A. *Short title and commencement.*—(1) These Rules may be called the Hindu Marriage and Divorce Rules, 1956.

(2) These Rules shall come into force on 1st June, 1956.

801 B. *Definitions.*—(1) "Act" means the Hindu Marriage Act, 1955 (Act XXV of 1955).

(2) "Code" means the Code of Civil Procedure, 1908.

(3) "Court" means the Court mentioned in section 3 (b) of the Act.

801 C. *Petition*—Every petition under the Act shall be accompanied by a certified extract from the Hindu Marriage Register maintained under section 8 of the Act.

801D. *Service of petitions.*—Every petition and notice under the Act shall be served on the party affected thereby in the manner provided for service of summons under order V of the Code:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

801E. *Contents of petitions.*—(i) In addition to the particulars required to be given under Order VII, Rule 1, of the Code and section 20 (1) of the Act, every petition for judicial separation, nullity of marriage and divorce shall contain the following particulars :—

(a) the place and date of marriage;

(b) the name, status and domicile of the wife and husband, before and after the marriage;

(c) the principal permanent address where the parties cohabited including the address where they last resided together;

(d) whether there is living any issue of the marriage and, if so, the names and dates of Birth or ages of such issues;

(e) whether there have been in any Court in India, and if so what previous proceedings with references to the marriage by or on behalf of either of the parties and the result of such proceedings;

(f) the matrimonial offence or offences charged, set out in separate paragraphs with the time and place of its or their alleged commission;

(g) property mentioned in section 27 of the Act, if any;

(h) the relief or reliefs prayed for.

(ii) In every petition presented by a husband for divorce on the ground that his wife is living in adultery with any person or persons or for judicial separation on the ground that his wife has committed adultery with any person or persons, the petitioner shall state the name, occupation and place of residence of such person or persons so far as they can be ascertained;

(iii) In every petition presented by a wife for divorce on the ground that her husband is living in adultery with any woman or women or for judicial separation, on the ground that her husband has committed adultery with any woman or women, the petitioner shall state the name, occupation and place of residence of such woman or women, so far as they can be ascertained;

801F. Every petition for divorce on any of the grounds mentioned in clause (viii) or (ix) of sub-section (1) of section 13 of the Act shall be accompanied by a certified copy of the decree for judicial separation or for restitution of conjugal rights as the case may be.

801G. *Necessary parties.*—(a) In every petition for divorce or judicial separation on the ground that the Respondent is living

in adultery or has committed adultery with any person the petitioner shall make such person a co-respondent. The petitioner may, however, apply to the Court by an application supported by an affidavit for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds :—

- (i) that the name of such person is unknown to the petitioner although he has made due efforts for discovery;
- (ii) that such person is dead;
- (iii) that the respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom adultery has been committed.
- (iv) for any other sufficient reason the Court may deem fit to consider.

(b) In every petition under section 13 (2) (i) of the Act the petitioner shall make "the other wife" mentioned in that section a co-respondent.

(c) In every petition under section 11 of the Act on the ground that the condition in section 5 (1) is contravened, the petitioner shall make the spouse alleged to be living at the time of the marriage a co-respondent.

801H. *Verification of petition.*—Statements contained in every petition shall be verified by the petitioner or some other competent person in the manner required by the Code for the verification of plaints.

801I. *Forms of petitions.*—The petitions made under the Act shall, so far as possible, be made in the forms prescribed in the Schedule to the Indian Divorce Act, 1869 (IV of 1869).

801J. *Notice*—The Court shall issue notice to the respondent and co-respondent, if any. The notice shall be accompanied by a copy of the petition. The notice shall require, unless the Court otherwise directs, the respondent or co-respondent to file his or her statement in Court within a period of four weeks from the service of the notice and to serve a copy thereof upon each of the other parties to the petition within the aforesaid period.

801K. *Written statements in answers to petitions by Respondents.*—The Respondent may and, if so required by the Court, shall present a written statement in answer to the petition. The provisions of Order VIII of the Code shall apply *mutatis mutandis* to such written statements. In particular, if in any proceedings for divorce the Respondent opposes the relief sought in the petition on the ground of the petitioner's adultery, cruelty or desertion, the written statement shall state the particulars of such adultery, cruelty or desertion.

801L. *Intervenors petitions.*—(1) Unless the Court for good cause shown otherwise directs, where the written statement of the respondent alleges adultery by the petitioner with a named man or woman, a certified copy of such statement or such material portion

thereof containing such allegation shall be served on such man or woman accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause.

(2) (a) *Costs regarding intervention*.—Whenever the Court finds that an intervenor had no sufficient grounds for intervening, it may order the intervenor to pay the whole or any part of the costs occasioned by the application to intervene.

(b) When the Court finds that the charge or allegation of adultery against the intervenor made in any petition or written statement is baseless or not proved and that the intervention is justified, it may order the person making such charge or allegation against the intervenor to pay to the intervenor the whole or any part of the costs of intervention.

801M. *Answer*.—A person to whom leave to intervene has been granted may file in the Court an answer to written statement containing the charges or allegations against such intervenor.

801N. *Mode of taking evidence*. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined like any other witness:

Provided that the parties shall be at liberty to verify the respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined, by or on behalf of the opposite party orally, and after such cross examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

801O. *Costs*.—Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent and the adultery has been established, the Court may order the co respondent to pay the whole or any part of the costs of the proceedings :

Provided that the co-respondent shall not be ordered to pay the petitioner's costs—

(i) If the respondent was at the time of the adultery living apart from her husband and leading the life of prostitute or

(ii) If the co-respondent has not, at the time of adultery reason to believe the respondent to be a married person.

801P. *Application for alimony and maintenance*.—(a) Every application for maintenance pendenterite permanent alimony and maintenance, or for custody, maintenance and education expenses of minor children, shall state the average monthly incomes of the petitioner and the respondent, the sources of these incomes, particulars of other movable and immovable property owned by them.

the number of dependents on the petitioner and the respondent and the names and ages of such dependents.

(b) Such application shall be supported by an affidavit of the applicant.

801Q. *Application for leave under section 14 of the Act.*—

(1) Where any party to a marriage desires to present a petition for divorce within three years of such marriage, he or she shall obtain leave of the Court under section 14 of the Act on *ex-parte* application made to the Court in which the petition for divorce is intended to be filed.

(2) The application shall be accompanied by the petition intended to be filed bearing the proper Court-fee under the law and in accordance with the rules. The application shall be supported by an affidavit made by the petitioner setting out the particulars of exceptional hardships to the petitioner or exceptional depravity on the part of the respondent on which leave is sought.

(3) The evidence in such application may, unless the Court otherwise directs, be given by affidavit.

(4) When the Court grants leave, the petition shall be deemed to have been duly filed on the date of the said order. The petitioner within a week of the date of the said order shall file sufficient number of copies of application for leave and order of the Court thereon and of the petition for divorce for service upon the respondents in the petition.

801R. *Service of copy of application for and order granting leave on the Respondents and procedure after service.*—(1) When the Court grants leave under the preceding rule a copy of the application for leave and order granting leave shall be served on each of the respondents along with the notice of the petition for divorce.

(2) (a) When the respondent desires to contest the petition for divorce on the ground that leave for filing the petition has been erroneously granted or improperly obtained he or she shall set forth in his or her written statement the grounds with particulars on which the grant of leave is sought to be contested.

(b) The Court, may, if it so deems fit, frame try and decide the issue as to the propriety of the leave granted as a preliminary issue.

(c) The Court may, at the instance of either party order the attendance for examination or cross-examination of any deponent in the application for leave under the preceding rule.

801S. *Taxation of costs.*—Unless otherwise directed by the Court, the costs of the petition under the Act shall be costs as taxed in a suit.

801T. *Order as to costs.*—The award of costs shall be within the discretion of the Court.

801U. *Transmission of certified copy of the decree.*—The Court shall send a certified copy of every decree for divorce or nulli-

ty or dissolution of marriage to the Registrar of marriage-in-charge of the Hindu Marriage Register.

Their lordships are further pleased to direct that a new Chapter XXXII A be inserted after Chapter XXXII in the Rajasthan High Court Rules, concerning the above rules.

### CHAPTER XXXIII

#### RULES UNDER SECTION 99 F OF THE CODE OF CRIMINAL PROCEDURE 1898

##### *Notes.*

Section 99 F. of the Code of Criminal Procedure under which these rules have been framed reads as under:—

Every High Court shall as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals, shall apply, so far as may be practicable, to such applications.

These rules are meant to regulate the proceedings referred to in sections 99-A, B, C, D and E of Criminal procedure Code. The sections are reproduced below:—

99 A. (1) Where—

(a) any newspaper, or book as defined in the Press and Registration of Books Act, 1867, or

(b) any document,

wherever printed, appears to the State Government to contain any seditious matter, or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of the citizens of India or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class, that is to say, any matter the publication of which is punishable under section 124-A or section 153-A or section 295-A of the Indian Penal Code, the State Government may, by notification in the official *Gazette*; stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document, to be forfeited to Government, and thereupon any police-officer may seize the same wherever found in India and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

99-B. - Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99-A may within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any seditious or other matter of such a nature as is referred to in sub-section (1) of section 99-A.

99-C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

99-D. (1) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the Application has been made, contained seditious or other matter of such a nature as is referred to in sub-section (1) of section 99-A, set aside the order of forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges.

99-E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.

802. *Application under section 99 B of the Code of Criminal Procedure.*—The Rules contained in this Chapter shall apply to an application made to the Court under section 99B of the Code of Criminal Procedure, 1898.

803. *Form of application.*—The application shall be in the form of a petition duly signed and verified by the applicant and accompanied by an affidavit setting forth the grounds upon which the order of forfeiture made under sub-section (1) of section 99 A of the Code of Criminal Procedure is sought to be set aside and stating what the interest of the applicant is in respect of the newspaper, book or other document in question. All documents or copies thereof in proof of such interest together with a copy of the notification issued under that sub-section shall be annexed as exhibits to the petition. The petition shall mention at the top the name of the newspaper, book or other document to which it relates and the name of the press, if any, where it may have been printed.

804. *Presentation of petition.*—The petition with the exhibits annexed thereto and their transliterations or translations, if any, together with a copy of such petitions, and exhibits or their transliterations translations, if any, shall be laid before the Chief Justice for the constitution of a Special Bench of three Judges as required by section 99 C. On the constitution of such Bench a day for the hearing and determination of the petition shall be fixed.

805. *Notices to Chief Secretary Rajasthan Government.*—Notice of the day fixed for the hearing and determination of the petition shall be given by the Registrar to the Chief Secretary to the Government of Rajasthan. Copies of the petition and exhibits or their transliterations or translations, if any, shall accompany such notice.

806. *Printed paper book.*—A paper book shall be prepared under the orders or the Registrar as nearly as may be in the manner provided for the preparation of paper books in First Appeals at least one week before the day fixed for the hearing of the petition.

807. *Summonses and warrants.*—Every summons or warrant of arrest issued by the Court shall be issued in duplicate, signed and sealed by the Registrar and shall unless otherwise ordered be sent to the District Magistrate concerned for service or execution.

808. *Costs.*—In disposing of the petition the Court may make such orders as to costs as it may consider just.

809. *Execution of orders.*—The provisions of the Code and these Rules and any orders or directions given by the Court relating to the execution of decrees and orders shall, with such adaptations and modifications as may be found necessary, apply to the execution of orders passed under this Chapter.

## CHAPTER XXXIII-A

### TRADE MARKS RULE

No. 20/S.R.O.—In exercise of the powers conferred by Section 77 of the Trade Marks Act, V of 1940, the High Court of Judicature for Rajasthan is pleased to make the following rules which are published for general information :—

- 809 A *Definitions.*— (a) In these Rules 'the Act' means the 'Trade Marks Act, 1940.
- (b) 'The Registrar' means the Registrar of Trade Marks and includes the Deputy Registrar of Trade Marks or such other officer to whom any particular functions of the Registrar are delegated in pursuance of Section 4 (2B) of the Act.
- (c) 'The Deputy Registrar (Judicial)' means the Deputy Registrar of the High Court of Judicature for Rajasthan at Jodhpur or at the Jaipur Bench or the case may be.
- (d) 'Judge' means the Judge nominated by the Chief Justice for the purpose.

809.B *Title of application.*—Applications, affidavits and proceedings under the Act shall be intitled in the matter of the Act and in the matter of the Trade Mark.

809.C *Mode of application.*—All applications and appeals under the Act shall be made by petition supported by affidavit and shall be presented to the Deputy Registrar (Judicial).

809.D *Disposal of petition.*—The Deputy Registrar (Judicial) shall lay the petition before the Judge who may either admit the petition and direct notice thereof to be given to the opposite party or may reject it summarily or may make such order as the circumstances of the case may require.

809.E *Service on Registrar.*—All applications to the Court whether by way of appeal or otherwise shall be served on the Registrar who shall have right to appear and be heard and shall appear if so directed by the Court.

809.F *Stay of pending suits or proceedings.*—If any application or appeal is made to the High Court under the Act and any suit or other proceeding concerning the Trade Mark in question is pending before the High Court or any District Court, the High Court may stay such suit or proceeding until the disposal of the said application or appeal.

809 G *Reference under section 72 (b).*—Where the Registrar makes a reference to the High Court under Section 72 (b) of the Act, he shall give notice of that fact to the parties concerned. After the Registrar has filed the reference, the Deputy Registrar (Judicial) shall fix a date for the hearing of the same and shall put it on the list of the Judge on such date for disposal, the Registrar shall give seven days' notice of the day so fixed to the parties concerned.



809 H *Procedure for withdrawal of application under Section 76 (2).*—Where under section 76 (2) of the Act, an applicant becomes entitled to withdraw his application, he shall give notice of the intention in writing to the Registrar and to the other parties, if any, to the appeal within one month after the leave referred to in that section has been obtained. He shall also give notice to the Deputy Registrar (Judicial) who shall thereupon forthwith place the appeal on the list for disposal.

809.I *Counter claim for rectification of Register in a suit for infringement.*—A defendant in a suit for infringement filed in the High Court may in regard to any registered trade mark in issue counter claim for the rectification of the register and shall within the time limited for the delivery of the counter claim serve the Registrar with the same, and the Registrar shall be entitled to take such part in the suit as he may think fit without delivering a defence or other pleading.

809.J *Order of rectification to be sent to Registrar*—A certified copy of every order directing rectification of the Register shall be sent by the Deputy Registrar (Judicial) to the Registrar who shall thereupon rectify the Register accordingly. The cost of the certified copy shall be borne by the applicant or the appellant as the case may be.

809 K *Application of the Code of Civil Procedure and Rules and Forms of the Court.*—In cases not provided for in the foregoing rules, the provisions of the Code of Civil Procedure, 1908, and the Rules and Forms of the High Court of Judicature for Rajasthan shall apply *mutatis mutandis* to all proceedings under the Act.

Their Lordships are further pleased to direct that a new Chapter XXXIII-A be inserted, after Chapter XXXIII in the Rajasthan High Court Rules, containing the above Rules.

#### Notes

Rules 809A to 809K have been newly added vide amending Notification No. 20/S.R.O. dated 20-8-55, published in Rajasthan Rajpatra dated 8-10-55 part IV (C).

### CHAPTER XXXIV

#### RULES RELATING TO CASES UNDER THE CHARTERED ACCOUNTANTS ACT, 1949 (CENTRAL ACT XXXVIII OF 1949)

810. *Preliminary.*—The Rules contained in this chapter shall regulate the procedure to be adopted in regard to cases received by the High Court under section 21 of the Chartered Accountants Act, 1949 (herein after referred to as the Act).

#### Notes.

Section 21 of the Chartered Accountants Act, 1949 dealing with the matter reads as under:—

Where on receipt of information or on receipt of a complaint made to it, the Council is of opinion that any member of the Institute has been guilty of conduct which, if proved, will render him unfit to be a member of the Institute, or where a complaint against a member of the Institute has been made by or on behalf of the Central Government, the Council shall cause an inquiry to be held in such manner

as may be prescribed, and the finding of the Council shall be forwarded to the High Court.

(2) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard before orders are passed on the case.

(3) The High Court may, thereafter, either pass such final orders on the case as it thinks fit or refer it back for further inquiry by the Council and, upon receipt of the finding after such inquiry, deal with the case in the manner provided in sub-section (2) and pass final orders thereon.

(4) Where it appears to the High Court that the transfer of any case pending before it to another High Court will promote the ends of justice, or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court, to which such case is transferred, shall deal with it as if the finding of the Council relating to the case had been forwarded to it.

*Explanation.*—In this section “High Court” means the highest Civil Court of appeal, not including the Federal Court, to which the Council forwards its finding, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry:

Provided that where the findings of the Council relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts, to the exclusion of the others, shall hear the cases against all the members.

811. *Numbering of cases*—All cases received by the High Court under section 21 of the Act shall be numbered as “Cases Referred”.

812. *Material papers relating to an enquiry.*—The Council of Institute of Chartered Accountants of India (hereinafter referred to as the Council) shall forward to the High Court one set of material papers relating to the enquiry which will be regarded as the original set. It shall include the following records:—

- (a) The finding of the Council.
- (b) The Report of the Disciplinary Committee.
- (c) Complaint or information.
- (d) Written statement of defence.
- (e) Depositions of witnesses, affidavits, exhibits and other oral and documentary evidence.
- (f) Notes of the hearing before the Disciplinary Committee and the Council.
- (g) Such other papers which were before the Disciplinary Committee and the Council as the Council may consider relevant or the High Court may require for the disposal of the case.

The Council shall also furnish the High Court with two additional authenticated copies of the papers aforesaid.

813. *English translation of certain documents.*—A translation in English of the documents which are not in that language and are included in the material papers shall be furnished by the Coun-

cil under its own authority. If the High Court considers that an official translation of any document or documents is necessary, such translation shall be made in the High Court, the expenditure incurred in that behalf being recovered from the Council.

814. *Copies of material papers*—In case the Central Government or any person interested requires copies of the material papers, the Council shall furnish such copies on application made to it subject to such terms and conditions as may be prescribed by the Council.

815. *Memorandum of postal addresses*.—The Council shall forward along with the material papers a memorandum containing the full and correct postal addresses of all persons or authorities on whom notices are required to be served under section 21 (2) of the Act.

816. *Date of hearing*.—On the case being numbered, the Registrar shall fix a date for the hearing of the case and shall cause notice to be issued under section 21 (2) of the Act in the Form prescribed in part V of Appendix A. The date of hearing shall be so fixed that there will be an interval of not less than 15 days between the date of service of notice and the date of hearing.

817. *The case to be heard by a Bench of not less than two Judges*.—The case shall be heard by a Bench of not less than two Judges, to be constituted by the Hon'ble the Chief Justice.

818. *Copy of certified order of the Court to be sent to the Secretary to council and Government of India*.—The Registrar shall send a certified copy of any order that may be passed by the High Court in the case to the Secretary to the Council and to the Secretary to the Government of India (Ministry of Finance).

## CHAPTER XXXIV A

### SPECIAL MARRIAGE RULE

#### *Notes.*

Rules 818 A to 818 W have been newly inserted vide amending Notification No. 16/S.R.O. dated 1/6/55, published in Rajasthan Rajpatra dated 16/7/55 part IV (c).

No. 16/S.R.O.—In exercise of the powers conferred by section 41 of the Special Marriage Act, 1954 (Act XLIII of 1954), the Hon'ble the Chief Justice and Judges are pleased to make the following Rules for carrying out the provisions of Chapters V, VI and VII of the Act—

818A. *Short title and commencement*.—(i) These Rules may be called the Special Marriage Rules, 1955.

(ii) The Rules shall come into force from the date of publication.

818B. *Definitions*.—(i) 'Act' means the Special Marriage Act, 1954 (Act XLIII of 1954).

(ii) 'Code' means the Code of Civil Procedure, 1908.

(iii) 'Court' means the District Court.

818C. *Petition*.—Every petition made under the Act, shall be accompanied by a certified copy of the certificate from the

Marriage Certificate Book about the solemnization of the marriage under the Act.

818D. *Contents of petitions.*—(i) In addition to the particulars required to be given under Order VII, Rule 1, of the Civil Procedure Code, every petition for judicial separation, nullity of marriage and divorce shall contain the following particulars:—

(a) The place and date of marriage;

(b) The name, status and domicile of the wife and husband before the marriage;

(c) The principal permanent address where the parties cohabited including the address where they last resided together;

(d) Whether there is living any issue of the marriage and if so, the names and dates of birth, or ages of such issues.

(e) Whether there have been in any Court in India, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties and the result of such proceedings;

(f) The matrimonial offence charged, set out in separate paragraphs with the time and places of their alleged commission;

(g) The claims for damages, if any, with particulars;

(h) If the petition is one for a decree of dissolution of marriage; or of nullity or annulment of marriage or for Judicial Separation, it shall further state that there is no collusion or connivance between the petitioner and the other parties to the marriage or alleged marriage;

(i) The relief or reliefs prayed for.

(ii) In every petition presented by a husband for divorce or judicial separation, on the ground that his wife has committed adultery with any person or persons the petitioner shall state the name, occupation and place of residence of such person or persons so far as they can be ascertained;

(iii) In every petition presented by a wife for divorce or Judicial separation, on the ground that her husband has committed adultery with any woman or women; the petitioner shall state the name, occupation and place of residence of such woman or women, so far as they can be ascertained.

818E. *Co-respondent in husband's petition.*—In any petition presented by a husband for divorce or Judicial separation on the ground that his wife has, since that solemnization of the marriage, been guilty of adultery, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing by an order of the Court which may be made on any one or more of the following grounds which shall be supported by an affidavit in respect of the relevant facts:—

(i) That the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed.

- (ii) That the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts for discovery;
- (iii) That the alleged adulterer is dead;
- (iv) For any other sufficient reason that the Court may deem fit to consider.

818F. *Verification of petition.*—Statements contained in every petition shall be verified by the petitioner or some other competent person in a manner required by the Code of Civil Procedure for the time being in force for the verification of plaints.

818G. *Forms of petitions.*—The petitions made under the Act, shall, so far as possible, be made in the forms prescribed in the Schedule to the Indian Divorce Act, 1869 (IV of 1869).

818H. *Petitions on behalf of Lunatics.*—When a husband or a wife is a lunatic or an idiot, any petition under the Act, other than the petition for restitution of conjugal rights, may be brought, on his or her behalf, by the person entitled to his or her custody.

818I. *Petitions by minors.*—(1) Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under the Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

(2) The next friend shall file an affidavit along with the petition which shall state the age of the minor, that the next friend has no adverse interest to that of the minor and that the next friend is otherwise a fit and proper person to act as such.

(3) The Court may be on considering the affidavit and such other material as it may require, record its approval to the representation of the minor by the next friend or pass such other orders as it may deem fit.

818J. *Notice.*—The Court shall issue notice to the respondent and co-respondent, if any. The notice shall be accompanied, unless otherwise directed by the Court, by a certified copy of the petition. The notice shall also require, unless the Court otherwise directs, the respondent or co-respondent to file his or her statement in court within a period of four weeks from the service of the notice and to serve a copy thereof upon each of the other parties to the petition, within the aforesaid period.

818K. *Service of petitions.*—Every petition and notice under the Act shall be served on the party affected thereby in a manner provided for service of summons under order V of the Civil Procedure Code:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

818L. *Written statements in answers to petitions by respondents.*—The respondent may and, if so, required by the Court, shall

present a written statements in answer to the petition. The provisions of Order VIII of the Code shall apply *mutatis mutandis* to such written statements. In particular, if in any proceedings for divorce the respondent opposes the relief sought in the petition on the ground of the petitioner's adultery, cruelty or desertion, the written statement shall state the particulars of such adultery, cruelty or desertion as required in the case of petition under clauses (d), (e) and (f) of sub-rule (i) Rule 4 and sub rule (ii) and (iii) of the same rule and the particulars of any relief which he claims on the said grounds.

818M. *Interveners in wife's petition.*—(1) Unless the Court for good cause shown otherwise directs:—

(a) Where the husband is charged with adultery with a named female person a certified copy of pleading or material portion thereof containing such charge shall be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause.

(b) Where the written statement of the respondent alleges adultery by the petitioner with a named man or woman as the case may be a certified copy of such statement or such material portion thereof containing such allegation shall be served on such man or woman, accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause

2. (a) *Costs regarding intervention.*—Whenever the court finds that an intervener has no sufficient grounds for intervening, it may order the intervener to pay the whole or any part of the costs occasioned by the application to intervene.

(b) Whenever the court finds that the charge or allegation of adultery against the intervener made in any petition or written statement is baseless or not proved and that the intervention is justified, it may order the person making such charge or allegation against the intervener to pay to the intervener the whole, or any part of the costs of intervention.

818N. *Answer*—A person to whom leave to intervene has been granted may file in the Court an answer to the petition or written statement containing the charges or allegations against such intervener.

818O. *Intervention by third party.*—During the progress of the petition under Chapter V or VI of the Act, any person suspecting that any parties to the petition are or have been acting in collusion, or the petitioner has committed fraud or he has concealed some material facts from the Court for the purpose of obtaining the decree prayed for, shall be at liberty to apply to the Court stating the circumstances and facts of such collusion, fraud and conceal-

ment, as the case may be. The application shall be supported by an affidavit. When such application is filed, the Court shall give notice thereof to the parties concerned and after hearing them and taking necessary evidence pass the necessary orders:—

(i) If the Court comes to the conclusion that such collusion, fraud or concealment of material fact is proved, then the original petition shall be dismissed and the intervening third party shall be awarded his costs from the parties, guilty of such collusion, fraud or concealment of facts.

(ii) Whenever such application is made and the Court comes to the conclusion that the intervening third party had no grounds or no sufficient grounds for intervening, it may order him to pay the whole or any part of the costs occasioned by his intervention.

818P. *Competence of husband and wife to give evidence as to cruelty or desertion or Judicial separation.*—On any petition presented by a wife, praying for divorce or Judicial separation by reason of her husband having been guilty of adultery coupled with cruelty or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

818Q. *Mode of taking evidence.*—The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself, or herself as a witness, and shall be examined, and may be cross-examined and re-examined like any other witness:

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the petition of the opposite be subject to be cross-examined Court, party, or by direction of the by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

818R. *Damages.*—Any husband may, either in a petition for Divorce or Judicial separation, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner:—

(i) Such petition shall be served on the alleged adulterer and the wife unless the Court dispenses with such service in accordance with the provisions of Rule No. 11.

(ii) The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondent or either of them may not appear. After the decision has been given, the Court may direct in what manner the damages shall be paid or applied.

818S. *Costs.*—Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent and the

adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings :

Provided that the corespondent shall not be ordered to pay the petitioner's costs :—

(i) If the respondent was, at the time of the adultery living apart from her husband and leading the life of a prostitute; or

(ii) If the co-respondent had not, at the time of adultery reason to believe the respondent to be a married woman.

818 T. *Taxation of costs*.—Unless otherwise directed by the Court, the costs of the petition under the Act shall be costs as taxed in suits under the Indian Divorces Act, IV of 1869.

818. U. *Order as to costs*—The award of costs shall be within discretion of the Court and the Court shall make an order about the same while passing the decree-

818. V. *Power to adjourn*.—The Court may from time to time adjourn the hearing of any petition under the Act, and may require further evidence thereon if it seems fit so to do.

818.W. *Transmission of certified copy of the Decree*.—The Court shall send a certified copy of every decree for divorce or nullity or dissolution of marriage to the Marriage Officer appointed under Section 3 of the Act.

Their Lordships are further,pleased to direct that a new Chapter XXXIV-A be inserted, after Chapter XXXIV in the Rajasthan High Court Rules, Containing the above Rules.

## CHAPTER XXXIV B

818. X. *Application of Rules of Court and C.P.C.*—"Appeals under section 72 (2) of the Copyright Act, 1957 shall be governed



*mutatis mutandis* by the Rules of Court, 1952 and by the provisions of Order XLI of the Code of Civil Procedure and for such purpose such appeals shall be deemed to be appeals from orders and shall be heard by a division bench.

818 Y. *Stay of Proceedings*.—The Court may, for sufficient reasons, direct that any proceedings in pursuance of the order appealed from shall remain stayed on such terms as it thinks fit.

*Notes.*

Chapter XXXIV B containing rules 818 X and 818 Y has been newly added vide notification No. G.

## PART VIII

### CHAPTER XXXV

#### Deposit and Re-payment of Money.

819. *Heads of account*.—Money received and paid shall be classified under the following heads of account, namely—

(1) Judicial deposits, including :—

- (i) sums deposited in lieu of security in Supreme Court Appeals and other cases under the orders of the Court; and
- (ii) sums deposited in connection with the preparation of paper books.

(2) Miscellaneous deposits, including :—

- (i) travelling and other expenses of witnesses;
- (ii) cost of publication of notices in newspapers;
- (iii) fees and incidental charges of commissioners arbitrators etc.;

- (iv) copying charges received by money order;
  - (v) fee of the Government Examiner of questioned documents for giving opinion;
  - (vi) copying charges paid in cash for the preparation of copies of books, registers, maps or plans.
- (3) Government credit, including—
- (i) sums to be credited to Government out of the sums deposited under Head (i) (ii) of this Rule;
  - (ii) fines, stamp duties and penalties;
  - (iii) sale proceeds of forms, waste paper, and useless furniture
  - (iv) sale proceeds of paper books;
  - (v) sums deposited by parties for summoning records.

819.A. Direct receipt of money which fall under head of Account No. (1) and (3) shall, as far as possible be avoided.

*Notes.*

This rule has been newly added vide amending Notification No. 4/S.R.O. dated 27/3/57, published in Rajasthan Rajpatra dated 25/4/57 part IV (c).

820. *Payment of cash by tender.*—Payment of money into court shall ordinarily be made by means of a printed tender form in triplicate duly filled in Hindi or English by the payer.

*Notes.*

This rule has been newly substituted for the previous rule through amending Notification No. 4/S. R. O. dated 27/3/57, published in Rajasthan Rajpatra dated 25/4/57, part IV (C). The previous rule 820 was as under—

Payment of money into court shall ordinarily be made in cash, accompanied by the printed tender form in triplicate duly filled in Hindi or English by the payer.

821. *Presentation of tender.*—The payer shall present the form to the Deputy Registrar ordinarily between the hours of 10-30 and 11-30 A. M. (or during morning hours 7-0 and 8-0 A. M.). The Deputy Registrar shall call for a report from the official in charge of the record of the case as to the correctness of the amount, the nature of the payment tendered and the number of the case, if any, as entered in the form and whether the payment is due from the person on whose behalf it is tendered. After such corrections as may be found necessary have been made, the Deputy Registrar shall put his signatures on the tender form, shall get the tender entered in the register of tenders as well as sign the order to receive payment on the duplicate and triplicate forms of the tender. Thereafter the original tender shall be retained in safe custody by the superintendent, Accounts Section, the duplicate and triplicate forms being returned to the payer for presentation and payment of the money to the Officer named in the order i.e. the cashier or the treasury officer.

*Notes.*

Originally the existing rule 821 was as under :—

The payer shall present form to the Deputy Registrar ordinarily between the hours of 10-30 and 11-30 A. M. (or during morning hours 7-0 & 8-0 A.M.) The Deputy Registrar shall call for a report from the official in charge of the record of the case as to the correctness of the amount, the nature of the payment tendered and the number of the case, if any, as entered in the form and whether the payment is due from the person on whose behalf it is tendered. After such corrections as may be found necessary have been made, the Deputy Registrar shall put his signatures on the tender form as well as sign the order to the cashier to receive and credit the amount if tendered to him within three days. Thereafter the tender form shall be returned to the payer for presentation and payment of the money to the cashier.

The Deputy Registrar shall ensure that the tender form is ordinarily returned duly signed to the payer the same day by 1-0 P. M. or during morning hours 9-30 A. M.

After putting a Coma behind the words "On the tender form" the existing words "as well as sign.....to the Cashier" have been deleted and in their place new words "shall get the tender.....the treasury officer" have been substituted vide amending Notification No 4/S.R.O dated 27-3-57, published in Rajasthan Rajpatra dated 25-4-57, part IV (C).

The Deputy Registrar shall ensure that the tender form is ordinarily returned duly signed to the payer the same day by 1-0 P.M. or during morning hours 9-30 A.M.

822. *Payment to the Cashier*—(1) On presentation of the two tender forms and on payment of the money to the officer named in the order to receive payment, the payer shall receive as an acknowledgment one of the forms of tender duly signed and the other form shall be retained as a voucher by the treasury or the cashier and posted in a file book.

(2) At the close of the day the Superintendent, Accounts Section shall compare the original tenders with the advice lists received from the treasury as well as with the copies of tenders presented by the payers to the cashier. The cashier shall certify the receipt of money in the register of tenders giving the serial number of the entry made in the relevant register. The Superintendent Accounts Section shall then counter-sign the cashier's certificate at the foot of the original tender and sent it without delay to the official concerned for being placed on the record of the case.

#### Notes

This rule has been newly substituted for the previous existing rule vide amending Notification No 4/S.R.O dated 27-3-57, published in Rajasthan Rajpatra dated 25-4-57 part IV (C). The previous rule was as under:—

On receiving the tender form and the money from the payer the cashier shall put his signatures on the three portions of the form in acknowledgment of the payment and hand over the last portion of the form to the payer by way of receipt. The second portion of the form shall be retained by him and pasted in a file book. He shall put the serial number of the entry made by him in the day book on the first portion of the form and forward it to the Superintendent, Accounts Department, who shall send it without delay to the official concerned to be placed on the record of the case.

823. *Time for payment*.—The time for the payment of money to the Cashier shall be from 10.30 A.M. to 2- P.M. and during morning hours 7-0 A.M. to 10-0 A.M.

824. *Payment by money order*.—Payment of money into Court may also be made by moneyorder addressed to the Deputy Registrar.

The moneyorder shall be received by the cashier and entered in the register of money orders, and the register and the moneyorder shall be laid before the Deputy Registrar for signature. A tender form in triplicate shall be prepared by the Superintendent of the department concerned, and the procedure laid down in the preceding Rules shall, so far as may be, be followed.

825. *Deposit to be sent to the Imperial Bank of India*—Sums deposited under heads (1) and (3) of Rule 819 shall be entered at once in their respective receipt registers and sent to the Treasury.

826. *Time barred translation and printing charges received by Money Order*--Sums tendered on account of translation and printing charges beyond the prescribed period shall not be accepted. But where such sum has been received by money-order, it shall be entered in the register of Judicial deposit under sub-head (ii) of head (1) of Rule 819 and credited to the personal ledger account mentioned in the next succeeding Rule.

827. *Disbursement of miscellaneous deposits*.--Sums deposited under head (2) of Rule 819 shall be entered at once in the register of miscellaneous deposits and repayments.

Sums deposited under sub-head (v) of head (2) of Rule 819 shall be sent to the Treasury as soon as possible and credited to the Central Government under the appropriate head.

Sums deposited under other sub-heads shall be retained by the Cashier if the money is expected to be disbursed soon; otherwise the money shall be credited to the personal ledger account maintained at the Treasury in the name of the Deputy Registrar and may be withdrawn when required by means of a cheque signed by the Deputy Registrar for the purpose of disbursement. In such case before the money is actually disbursed it shall again be entered in the register to which such deposit relates.

828. *Manner of Repayment*.--The repayment of sums entered under head (2) of Rule 819 may be made by the Cashier in cash, or when the amount does not exceed Rs. 100/-, by postal money-order under the orders of the Deputy Registrar after deducting money order commission therefrom.

829. *Repayment Orders*.--The repayment of sums entered under head (1) of Rule 819 shall be made through treasury by means of a repayment order upon an application in the prescribed form under the orders of the Registrar or the Deputy Registrar.

*Notes.*

The words "through treasury" have been newly inserted between the words "shall be made" and "by means of" vide amending Notification No. 4/S.R.O. dated 27/3/57, published in Rajasthan Rajpatra dated 25/4/57 part IV (c).

830. *Presentation of application for Repayment*.--Every application for repayment under Rule 829 shall be signed by the person to whom the money is repayable or by the person duly authorized by him by a general or special power of attorney. When the person signing the application is not known to the Deputy Registrar, his signature shall be witnessed by an Advocate or any other person known to the Deputy Registrar.

If the applicant desires that the money be paid on his behalf to his Advocate, he shall sign a declaration on the form that the money be paid to such Advocate. Such Advocate shall also put his signature on the form.

The applicant shall fill up columns 1 to 4 of the form. If the precise amount due to him is not known, column 4 need not be filled up. The application shall bear the necessary court-fee stamps

and shall be presented to the Deputy Registrar during the hours fixed for presentation of applications.

831. *Identification of the applicant*—If the person to whom the money is payable appears in person and is not personally known to the Deputy Registrar, no order for repayment shall be made until he has been identified by an Advocate or any other person known to the Deputy Registrar.

832 *Repayment by Money Order*—Where the sum to be repaid does not exceed Rs. 100/- and the applicant desires that the money be remitted to him by money order, he shall add to the application a request to that effect and mention the address at which the money is to be remitted to him. He may instead of presenting such application to the Deputy Registrar forward it to him by post after obtaining thereon the countersignature of a Judge, Munsif or Magistrate as to his identity under the seal of the court. In such case the money repayable less money-order commission shall be remitted to him by money-order at the address given in the application

If the applicant is serving in the Army, Navy or Air Force, the countersignature as to his identity by his Commanding Officer will be sufficient for the purpose of this Rule.

833. *Order by the Court in certain cases*.—In the case of appeals to the Supreme Court, the Deputy Registrar shall before making an order of repayment obtain an order of the Court as to such repayment. The Deputy Registrar or the Court may before making an order of repayment direct notice to issue to any person or persons to show cause why such repayment should not be made.

834. *Order of repayment*.—If the application is found by the Deputy Registrar to be incorrect or defective, he may get it corrected by the applicant. The Deputy Registrar shall thereafter satisfy himself after calling for an office report that the repayment is due and that no charges are due from the applicant on account of any translation and printing. He shall also obtain a certificate from the Superintendent, Accounts Department, showing that there is no order of attachment or stop order in force affecting such money or any part thereof.

On being satisfied that any repayment is due to the applicant, he shall make an order of repayment and thereafter a repayment order shall be prepared in the proper form.

Where it is found that no money is payable to the applicant, the application shall be rejected and placed on the record of the case.

#### Notes.

Para number three of the previous rule has been deleted vide amending Notification No. 4/S.R.O. dated 27/3/57, published in Rajasthan Rajpatra dated 25/4/57 part IV (c). Para three as existed was as under:—

Where it is considered desirable that repayment should be made through a bank, the repayment order shall be sealed with a seal containing the words "Recoverable through a bank."

835. *Repayment to be promptly made.*—It shall be the duty of the Deputy Registrar to see that applications for repayment are promptly dealt with and a repayment order should ordinarily be ready for delivery to the applicant within one week from the date of the application.

836. *Checking of Cash balance.*—The cash balance in the hand of the Cashier shall be checked at least once every month by the Deputy Registrar.

837. *Registers.*—The Cashier shall keep the following registers, namely:—

- (1) Deposit Cash Book;
- (2) Cash book;
- (3) Register of Money Orders;

The Superintendent, Accounts Department, shall keep the following registers, namely,

- (1) *Register of Receipt and Repayment of Judicial Deposits.*
- (2) Register of Miscellaneous Deposits and Repayments;
- (3) Register of Lapsed Deposits;
- (4) Clearance Register;
- (5) Register of Personal Ledger Account;
- (6) Register of Contingencies;
- (7) Register of Government Credits or Revenue Receipts.

838. *Acquittance Rolls.*—The Cashier shall also maintain the acquittance rolls.

839. *Annual lists of unpaid deposits.*—Early in the month of February every year, the registers of Receipts and Repayments of Deposits shall be carefully examined by the Superintendent, Accounts Department, and a list shall be prepared of—

- (i) (a) all deposits not exceeding rupees five which have remained in deposit from a date prior to April 1 of the preceding year; and
- (b) all unpaid balances of deposits not exceeding rupees five of all deposits which have been partly repaid, and
- (ii) all deposits and unpaid balances of deposits which had on the first day of February remained in deposit from a date more than two years prior to April 1 of the preceding year.

The list shall be affixed on the notice board in a conspicuous part of the court-house with a notice stating that the items mentioned therein would lapse to Government if they are not withdrawn before April 1 following and that such lapsed deposits cannot be repaid without the sanction of the Accountant General.

#### CHAPTER XXXVI.

##### PROCESSES AND PROCESS FEES

840. *Process fees original jurisdiction.*—(1) The scale of fees chargeable for serving or executing any process issued by the Court in exercise of its Matrimonial, Testamentary and Intestate, or Original Civil Jurisdiction, ordinary or extra-ordinary, shall be

double the scale of such fees chargeable in the Court of the District Judge under the rules in force for the service or execution of such processes.

(2) The Postal charges in all processes required to be transmitted by post together with registration fee, if the postal packet is required to be registered, should be paid by the Court by means of service postage stamps without any additional charge being levied for the same from the parties at whose instance the process is issued.

*Notes.*

Existing rule 840 has been renumbered as sub-rule (1) of rule 840 and this sub rule (2) has been newly added vide amending Notification No. 11/S.R.O. dated 26-2-58, published in Raj-Rajpatra dated 27-3-58 part IV (c).

841. *Process fees appellate Jurisdiction.*—(1) The fees chargeable for serving and executing processes issued by the Court in exercise of its civil appellate jurisdiction shall be as follows:—

(a) Notice of appeal or other notice to respondents, where the number of respondents to be served is not more than four—one fee of three rupees.

Where the number of such respondents is more than four, the fees above-mentioned shall be charged for the first four together with an additional fee of eight annas for every respondent in excess of four; provided that the aggregate amount of fees levied under this clause shall not exceed fifteen rupees.

(b) Summonses to witnesses; where the number of witnesses to be served is not more than four—one fee of three rupees.

Where the number of such witnesses is more than four, the fee above mentioned shall be charged for the first four together with an additional fee of eight annas for every witness in excess of four.



(c) Warrant of arrest in respect of each person to be arrested—five rupees.

(d) Notice, proclamation or injunction or other order not otherwise provided for; where the number to be served is not more than four—one fee of three rupees.

Where the number is more than four, the fee abovementioned shall be charged for the first four together with an additional fee of eight annas for every process in excess of four, provided that the aggregate amount of fees levied under this clause shall not exceed fifteen rupees.

(2) Sub-Rule (1) shall, with necessary modifications and adaptations, also apply to fees chargeable for, serving and executing processes in exercise of the Court, civil revisional jurisdiction.

842. *When fee not chargeable.*—Notwithstanding anything contained in Rules 840 and 841, no fee shall be charged for:—

(a) Serving or executing any process issued by the Court of its own motion unless the Court orders that the process fee be paid by any party; or

(b) Serving or executing any process issued in consequence of the adjournment of a case otherwise than at the instance of a party; or

(c) affixing a copy of a notice, summons, proclamation or order in a court-house or a public office; or

(d) serving or executing an order upon an officer in charge of a jail directing him to detain or release a person committed to his custody; or

(e) serving or executing any process or order in connection with a departmental inquiry.

843. *Process not to issue unless fee paid.*—No process in respect of which a fee is chargeable under Rule 840 or 841 shall be issued unless the requisite fee has been paid.

844. *Fees to be paid in court-fee stamps.*—(1) Fees shall be paid in court-fee stamps which shall be affixed to the application by which the Court is moved to issue the process, or, if there be no such application, to the memorandum of appeal or cross-objection or the application initiating the proceeding.

(2) Where an application is made for issue of process, the court fee paid on the application itself shall not be regarded as part of such process fee.

845 *Service of process beyond Court's jurisdiction.*—Where the Court sends a process for service or execution to any court beyond its jurisdiction, it shall endorse thereon a certificate that the fee chargeable under the Rules has been levied, so that it may be served or executed free of further charge by the Court to which it is sent.

(2) Where any extraordinary local expenses, such as, boat, hire, have to be incurred in service or execution of such process, a sum sufficient to cover such expenses shall be paid in cash by the party concerned and sent by postal money order to the Court to which the process is sent for service or execution.

(3) (i) When processes or summons (both in civil and Criminal cases) are issued in a language other than the official language of the receiving court such processes

or summons should be accompanied by an authorised English translation.

- (ii) The report from the receiving court to the originating court regarding the service or non-service of the processes or summons should similarly be accompanied by an authorised English translation of the report.

*Notes.*

Sub rule (3) of rule 845 has been newly added vide notification No B

846 *Fees for processes to be issued by another court.*—Fees for processes to be issued by the court to which a commission is issued shall be payable in accordance with the rules of such court. They shall be paid in cash by the party concerned and sent by postal money order to that court.

847. *Refund of process fee when process not issued.*—Where in consequence of a compromise or for some other reason, it becomes unnecessary to issue any process of which a process fee has been paid and such process has not been issued, one-half of the process fee shall be refunded to the party concerned provided that an application for such refund is made before the court fee stamps by which such process fee was paid are destroyed.

Save as provided above no fee paid in respect of a process shall be refunded after the order directing the issue of such process has been made,

848. *Fees paid to be costs in the cause.*—Except as otherwise provided by these Rules or ordered by the Court, all fees and charges paid in accordance with the preceding Rule shall be costs in the cause;

Provided that no fees or charges which have been refunded or in respect of which a party might on application have obtained an order for refund, shall be deemed to be fees or charges within the meaning of this Rule.

849. *Cost of summoning a record.*—The cost of summoning a record shall be rupees 2 and Rules 842 (a) and (e) 843, 845, 847 and 848 shall, so far as may be, and with necessary modifications and adaptations apply thereto. Such cost shall be paid in cash to the cashier.

## CHAPTER XXXVII.

### REGISTERS.

850. *Institution Registers.*—A separate Register of Institution in the prescribed form shall be kept for each of the following classes of cases, namely:—

- (1) First Appeals.
- (2) Execution First Appeals.
- (3) Second Appeals.
- (4) Execution Second Appeals.
- (5) Appeals from Orders.
- (6) Civil Revisions.
- (7) Applications for Review of Judgment.
- (8) Matrimonial Suits.
- (9) Testamentary Suits.
- (10) Company Cases.
- (11) Other Original Suits.
- (12) Special Appeals.
- (13) Applications for leave to appeal to Supreme Court.
- (14) Civil Miscellaneous Cases.
- (15) Civil References.
- (16) Writ Cases.
- (17) Criminal Appeals.
- (18) Criminal Revisions.
- (19) Criminal References.
- (20) Criminal Miscellaneous Cases.
- (21) Cases under section 374 of the Code of Criminal Procedure.

The cases shall be entered in the Register according to the date of admission and no defective case shall be entered therein.

#### Notes.

Items (15 a) and (21) had been newly inserted vide Notification No. 11/ S.R.O. dated 6/6/53, published in Rajasthan Rajpatra dated 4/7/53 part II. Subsequent to this notification, the word "First" from item No. (15) and item No. (16) as a whole were deleted vide amending Notification No. 53/S.R.O./3/Gazette dated 4/1/55, published in Rajasthan Rajpatra dated 22/1/55 part IV (c). Subsequent items were, therefore, renumbered accordingly.

851. *Register of Disposals.*—A separate Register of Disposals in the prescribed form shall be kept for each of the classes of cases mentioned in Rule 850.

852. *Register of defective cases.*—A register in the prescribed form shall be kept of all defective cases of each of the above mentioned classes of cases. The cases shall be entered according to the date of presentation and a record shall be kept of the steps taken from time to time to remove the defect. As soon as the defect has been removed and the case admitted, it shall be entered in the appropriate Register of Institutions.

853. *Register of Miscellaneous applications.*—A register in the prescribed form shall be kept of all civil miscellaneous applications relating to pending cases (Rule 126). The applications entered in this register will be only those for the disposal of which orders of the Court may be required.

854. *Alterations in registers.*—The Register may, with the approval of the Chief Justice, make such alterations, addition or substitution in the columns of any register as may be found necessary.

## CHAPTER XXXVIII.

### INSPECTION OF RECORDS.

855. *Removal of record from Court building.*—No record of any case shall be removed from the Court building except under an order in writing of a Judge or the Registrar;

Provided that if a Judge requires a record at his residence he may take it. The official in whose custody the record is shall keep a note of the date when the Judge takes the record and the date when he returns it.

856. *No inspection of record in Administrative Department.*—No record or paper in the Administrative Department shall be inspected by any person other than a Judge or a Gazetted officer of the Court except under an order in writing of the Judge in the Administrative Department.

857. *Inspection of record in Judicial Department.*—Except as provided in Rule 84 or Rule 220, no record or paper in the Judicial Department shall be inspected by any person other than a Judge or Gazetted officer of the Court without an order in writing of a Judge, the Registrar or the Deputy Registrar.

858. *Time of inspection.*—Any person permitted to inspect a record may inspect it between the hours of 12 Noon to 3 P. M. and during morning hours 8.0 A. M. to 10.30 A. M. on such day or days for which permission is given.

859. *Place of inspection.*—No inspection of the record of a Judicial case shall be made except in the room of the Inspection Clerk and in his presence.

860. *Inspection by a party.*—Any party to a case or the Advocate or recognised agent of such party may apply for an order for inspection by himself of the record of such case or any paper or papers contained therein:

Provided that a party which has been ordered to file a written statement shall not be entitled to inspect a written statement filed by another party until it has first filed its own.

861. *Inspection by stranger* —(1) A person other than a party to the case may also apply for an order for the inspection of a record or any paper or papers contained therein provided he clearly states in his application the reason why such inspection is desired.

(2) Such person shall not be entitled as of right to obtain an order for inspection and shall in no case be allowed to inspect any exhibit on the record except with the consent in writing of the person by whom such exhibit was filed or by his successor-in interest. Such consent shall be filed along with the application for inspection.

(3) Notwithstanding anything contained in sub-rule (2) an officer or other nominee of the Reserve Bank of India duly authorised for the purpose by the Bank may be allowed to inspect the records of the Court in the matter of any bank in liquidation.

*Notes.*

The sub-rule (3) has been newly added vide amending Notification No. 47/ S.R.O. dated 1/12/54, published in Rajasthan Rajpatra dated 11/12/54 part IV (c).

862. *Form of application*.—Every application for inspection shall be on the prescribed form and shall specify clearly—

- (a) the particulars of the record or paper of which inspection is desired;
- (b) the party or the person on whose behalf the application is made;
- (c) the name of the person by whom inspection is to be made; and
- (d) whether the application is an ordinary or an urgent one.

863. *Fees*.—The fees for the inspection of records in Civil and Criminal cases shall be paid in court fee labels in accordance with the following scale, namely—

- (i) Ordinary—Rupee one.
- (ii) Urgent—Rupees two.

Provided that no fee shall be charged in the case of—

- (a) inspection by counsel appearing for the Government or by an officer of the Government whose duty it is or who may have been empowered by the Government to make inspection of records;
- (b) inspection by counsel for accused:—
  - (i) where the accused is in custody;
  - (ii) where the counsel is appointed at the expense of the Government;
- (c) Inspection by an officer or other nominee of the Reserve Bank of India inspecting a record under sub-rule (3) of Rule 861.

*Notes.*

Clause (c) has been newly added vide amending Notification No. 47/S.R.O. dated 1/12/54, published in Rajasthan Rajpatra dated 11/12/54 part IV (c).

(d) inspection by any person specially exempted from the payment of such fees by the Chief Justice.

864. *Time of application.*—Every application for inspection shall be made before the Deputy Registrar on a working day between the hours of 10.30 A.M. and 1 P.M. and during morning hours between 7-0 A.M. and 9 A.M. and shall bear the courtfee labels as provided in Rule 863;

Provided that a fresh application for the inspection of the same record on the next day shall be entertained up to 3.30 P.M., and during morning hours, upto 11 A.M.

865. *Order of inspection.*—Every order for the inspection of a record shall specify the record or the paper or papers of which inspection is allowed and shall state the name of the person or persons who may make such inspection.

866. *Application to be forwarded to the Superintendent concerned.*—After an order for inspection has been made, the Deputy Registrar shall forward the application to the Superintendent of the department concerned.

867. *Application to be numbered, initialled and registered.*—The superintendent or one of his assistants shall number and initial the application and enter it in a register in which the following entries shall be made, namely—

- (a) Serial number of the application and the nature of inspection (Ordinary or Urgent);
- (b) particulars of the record or paper inspected;
- (c) date of the order of inspection;
- (d) date of inspection;
- (e) name of each person inspecting the record;
- (f) the date of receipt of record or paper and the date of its return; and
- (g) remarks, if any.

868. *Ordinary and urgent applications.*—Inspection on an ordinary application shall be allowed on the day following the day on which the application is made or on a subsequent day mentioned in the order. Inspection on an urgent application shall be allowed on the same day.

869. *No pen, ink etc. to be brought into the inspection room.*—The officer before whom the inspection is made shall not allow any person inspecting a record or paper to bring into the room any pen or ink or to make any mark, upon, or in any respect to mutilate, any record or paper which is being inspected. No person other than the person or persons named in the order of inspection shall be allowed to enter the inspection room:

Provided that a registered clerk may accompany an Advocate in the inspection room, but shall leave the room as soon as the advocate ceases inspection.

870. *Inspection of registers.*—(1) No one other than a Judge, the Registrar or a Gazetted officer of the Court may inspect any register except on an order in writing of the Registrar and in the presence of the officer whose duty it is to keep such register; and no one other than a Judge or the Registrar may inspect any confidential Register.

(2) The fee for the inspection of a register in the Judicial Department shall be one rupee and fifty Naya paisa. In other respects the Rules contained in this chapter with reference to the inspection of record in any case or proceeding shall, with necessary modifications and adaptations, apply to the inspection of a register.

*Notes.*

The words "fifty Naya Paisas" have been substituted for the words "eight annas" occurring previously vide amending Notification No. 19/S.R.O. dated 13/6/58, published in Rajasthan Rajpatra dated 26/6/58 part IV (c).

CHAPTER XXXIX.

COPIES.

871. *Copy not to be made without order.*—Except as otherwise directed by these Rules or by a Judge, no copy shall be made or permitted to be made of any record or of any paper in any record, without an order of the Court, the Registrar or the Deputy Registrar on an application made as hereinafter provided.

872. *Application for copy*—Every application for copy shall be presented in person or sent by post to the Deputy Registrar.

Provided that an application for copy by a stranger to the case to which the paper of which a copy is sought relates shall be presented in person to the Registrar—

- (a) when it is made before the passing of the final decree or order in the case; or
- (b) when the copy required is of an exhibit in the case, whether the application is made before or after the date of the passing of the final decree or order.

873. *Contents of application.*—Every application for copy shall be written on the prescribed form and shall state—

- (1) (a) the name and address of the applicant;
- (b) whether the applicant is a party to the case which the paper of which a copy is sought relates;
- (c) whether the application is an ordinary or an urgent one;
- (d) whether the copy is to be sent by post;
- (e) full particulars of the paper of which a copy is sought and the record in which it is contained mentioning in the case of an appeal, revision or reference, the Court in which the case under appeal or revision was decided or from which reference was received;



- (f) whether the case has been finally disposed of and the date of decision or final order, if any; and
- (g) when the applicant is not a party to the proceeding, the purpose for which the copy is sought.

874. *Copies by post.*—Where it is desired that where the application for a copy is rejected, notice of its rejection be sent to the applicant by post, the address at which such copies or notice may be sent shall also be given in the application and postage stamps of the requisite value shall be attached thereto. Where the cover is required to be sent by registered post, the fact shall be stated in the application and extra postage stamps sufficient to cover registration charges shall also be attached to the application.

875. *Time of presentation.*—All applications for copy shall be received between the hours of 10 30 A.M. and 1 P.M. and during morning hours, 7-0 A.M. and 9 A.M. The Registrar or the Deputy Registrar, as the case may be, may in exceptional circumstances receive any application after 1 P.M. (or 9 0 A.M.).

After receiving such applications, the Registrar or the Deputy Registrar, as the case may be, shall endorse on them under his initials the date of receipt, pass orders granting the application and forward them to the Head Copyist. The Head Copyist shall without delay put serial numbers on them and enter them in the Register of Applications for copies mentioned in Rule 891.

876. *Copy of written statement.*—A party which has been ordered to file a written statement shall not be entitled to take a copy of a written statement filed by another party until it has first filed its own.

877. *Application by stranger.*—An application by a stranger to the case for the copy of an exhibit whether the application is made before or after the passing of the final decree or order or for the copy of any other paper when it is made before the passing of the final decree or order in the case, shall not be granted unless the Registrar is satisfied that there is sufficient reason for granting it.

The Registrar may refer any application under this Rule to the Administrative Judge for orders.

878. *Grant of copy of exhibit to stranger.*—No order for a copy of an exhibit shall be made on the application of a stranger to the case in which such exhibit was filed, unless the application is accompanied by a properly authenticated consent of the person by whom such exhibit was filed to the grant of such copy.

879. *Copy of deposition which is being recorded before the Court.*—Where an application is made for the copy of a deposition which is being recorded before the Court, the Deputy Registrar shall refer it to the Bench concerned for orders.

If the application is granted, the ordinary procedure shall be followed, except that only such portion of the deposition shall each day be given to the Head Copyist as may reasonably be expected to

be copied out during the day. At the close of the day the Head Copyist shall return it to the Bench Reader concerned.

In the case of an urgent application, if the Court so directs, such copy may be prepared by the Judgment clerk by whom the deposition is taken down in shorthand and shall be issued by the Head Copyist after he has compared it with the original. At the request of the applicant uncertified copies of such depositions may be issued without such comparison by the Head Copyist to avoid daely.

880. *No charge for copy in certain cases.*—Notwithstanding anything contained in these Rules, the Registrar may order a copy of any paper on a record to be made and delivered free of charge upon an application on behalf of a Government or the head of any Department of a Government in India, or any High Court in India, or any authority in India exercising jurisdiction similar to that of a High Court or any Court subordinate to this Court, or any principal Court in any other country.

881. *Free Copy.*—(1) A copy of the original or appellate decree in a pauper suit or appeal or application may be supplied free of charge on application to a Government Law Officer.

(2) A copy of the whole or any part of the record, when required for the purposes of conducting any trial or investigation or any judicial proceeding on behalf of the Government in a criminal case may on application be supplied free of charge to a Government Law Officer.

If, however, the Registrar considers that the demand made is in excess of what is necessary for the purpose stated in the application, he may refuse to grant free of charge any or all the copies applied for.

(3) A copy of the judgment or order in a criminal case may be supplied free of charge to a prisoner confined in a jail on an application received through the Superintendent of the Jail concerned.

If the application is made through a friend acting or purporting to act on behalf of the prisoner it shall be sent to the Superintendent of the Jail concerned to be attested by the prisoner and when so attested, it shall be treated as the prisoner's own application.

(4) In Civil cases in which the Government is a party, copies of judgment, orders and decrees and of any other papers required for the purposes of conducting the case shall be supplied free of charge to the Government Law Officer.

882. *Confidential papers.*—No copy of, or extract from, any minute, letter or document on any administrative or confidential file of the Court shall be issued except under an order in writing of the Chief Justice countersigned by the Registrar. Every such order shall be kept in a file by the Registrar and he shall make a note

thereof duly dated and signed by him on such minute, letter or document.

No copy of, or extract from, the minute book of the Administrative Committee shall be given except in accordance with any resolution passed at a meeting of the Administrative Committee.

883. *Copy of copy*—No copy shall be given of any document which is itself a copy except for special reasons to be recorded on the application by the Registrar or the Deputy Registrar, as the case may be. Where a copy of a copy is given, the fact that it is such copy shall be noted in red ink on the top of each page of such copy.

884. *Delivery of copy to registered clerk*.—An application for copy duly signed by an Advocate may be presented by his registered clerk and the copy when ready may be delivered to the clerk presenting such application.

885. *Copy of document in a language or character not current in the State*.—Where an application is made for a copy of any document in a language or character with which no copyist on the establishment of the Court is acquainted, the Registrar shall, if possible, arrange, for the preparation of a copy by any competent person acquainted with such language or character, who may, in his opinion, be relied upon for the purpose. In such a case the person preparing the copy shall verify it in the following manner, namely--

“I (A.B) declare that I read and understand the language and character of the original and that the above is a true and accurate copy thereof.”

If no such person can be found, the Registrar may send the document together with a copy of this Rule to a court in another State where such language or character may be in use and request it to have the copy made. Any additional charges incurred shall be borne by the applicant.

If agreed to by the person applying for such copy, the Registrar may, instead, have a photographic copy prepared of such document, If possible, on payment by the applicant of all such additional charges as may be incurred.

886 *Application to be accompanied by copy folios and stamp labels*.—Except in cases where no copying fee is chargeable under these Rules, every application for copy shall be accompanied by copy folios bearing extra adhesive copy stamp labels of the requisite value, unless the copy required be of a book, register, map or plan or an extract thereof. If the whole of the copy cannot be written upon the copy folios accompanying the application, it shall be completed upon ordinary foolscap size paper:

Provided that where the copy required is a copy of a decree of the Court, the application shall be accompanied only by adhesive

copy stamp labels of the requisite value and the copy shall be made on the printed form prescribed for the preparation of decrees, the court fee labels being affixed thereon.

Provided further that when copy folios may not be available, plain paper may be used for the preparation of copies.

887. *Scale of charges for copies.*—The following scale of charges is prescribed for copies; viz;

- (a) For a copy of a judgment, deposition, decree or any other paper except a book, register, map or plan or any extract thereof, containing less than four hundred words—

Ordinary . . . Rs. 1/-

Urgent . . . Rs. 2/-

- (b) For a copy ordinary or urgent containing more than four hundred words, for four hundred words the charge shall be the same as detailed above, and for every subsequent hundred words or less an extra charge of twenty five naya paisa and fifty naya paisa shall be made for an ordinary and urgent copy respectively.—

#### Notes

The words "twenty-five Naya Paisas" and "fifty Naya Paisas" have been substituted for the words "four annas" and "eight annas" vide amending Notification No. 19/S.R.O. dated 13-6-58, published in Rajasthan Rajpatra dated 26-6-58 part IV (C).

The representatives of approved Law Reports shall, subject to the conditions laid down in Rule 119, be entitled to get (i) copies of judgments and orders "Approved for Reporting (A.F.R.) on payment of Rs. 2/- and 50 Naya paisa per copy and (ii) copies of judgments and orders approved reportable on payment of three fourth of the above charges provided such judgments and orders are approved by the judges for publication.

#### Notes.

Previously this para was as under. It has now been replaced as above vide amending Notification No. 1C/Gen. dated 12-2-53, published in Rajasthan Rajpatra dated 7-3-53. Part II :—

Representatives of approved Law Reports shall be entitled to get copies of judgments and orders "Approved for Report for Reporting" (A.F.R.) on payment of three fourths of the above charges for ordinary copies in accordance with the conditions laid down in Rule 119.

The words and figures "Rs. 2/8/- per Copy" appearing in the last para of the present rule have been substituted for the words "One-half of the above Charges" vide amending Notification No. 18/S.R.O. dated 24-9-53, published in Rajasthan Rajpatra dated 17-10-53 part II which has been further amended by substitution of words and figures "Rs. 2 and 50 Naya Paisas" for the words and figures "Rs. 2/8/-" vide amending Notification No. 19/S.R.O. dated 13-6-58, published in Rajasthan Rajpatra dated 26-6-58 part IV (C).

In cases in which an applicant desires to have more than one copy of a paper and typed copies can be given, each copy after the first shall be supplied at half the rates prescribed above.

#### Notes

This para three to rule 887 has been newly added vide amending Notification No. 11/S.R.O. dated 4-5-56, published in Rajasthan Rajpatra dated 9-6-56 part IV (C).

888 *Copies of books etc.*—Where the application is for the copy of a book, register, map or plan or any extract thereof, the Head Copyist shall, as soon as it has been received from the Registrar or the Deputy Registrar, as the case may be, cause an estimate to be made of the cost of preparation of such copy and submit it along with the application to the Registrar. After the Registrar has approved the estimate, it shall be communicated to the applicant if present, or notice thereof shall be affixed on the Notice Board of the Copying office on two consecutive working days and the applicant shall be required to deposit the estimated cost within seven days. If the application has been received by post, a copy of the notice shall be sent by unpaid post to the applicant requiring him to deposit the estimated cost within ten days. If within the time aforesaid the estimated cost mentioned in the notice is paid to the cashier or received by him by money order, he shall enter it in the Register of Petty Items and inform the Head Copyist. The Head Copyist shall obtain the order of the Deputy Registrar for the purchase of the necessary stamp, tracing cloth etc. and the copy shall thereafter be prepared. If the cost is not received by the cashier within the aforesaid time, the application shall be rejected.

889. *Rejection of application*—If for any reason the copy applied for cannot be given, the application shall be rejected. The copy folios and stamps shall be returned to the applicant after taking his signature in the appropriate column of the Register of Applications and he shall be informed of the reason why the copy cannot be given. If, the application is received by post, the information shall be given to the applicant and the copy folios and stamps returned to him by unpaid post. If, however any postage stamps have been filed with the application under Rule 874, they may be used for the purpose. A note thereof shall be made in the remarks column of the Register of Applications.

890. *Destruction of copy folios and stamp papers which cannot be returned.*—If any copy folios and stamps are to be returned to the applicant personally under the next preceding Rule and the applicant does not appear within three days of the date on which his application is rejected, they may be sent to him by post provided that the necessary postage stamps have been deposited on his behalf for this purpose. Any copy folios and stamps which cannot be returned to the applicant or are received back as undelivered from the Post Office shall be destroyed under the orders of the Deputy Registrar after the lapse of a period of three months, the fact being noted in the remarks column of the register.

891. *Register of applications.*—A Register of applications for copies and another Register of applications for copies disposed of shall be maintained by the Head Copyist in the prescribed form.

*Notes*

Originally the rule 891 stood in the following form, It has now been substituted by the present form vide amending Notification No. 3/S.R.O. dated 21-1-54, published in Rajasthan Rajpatra dated 20-2-54 part II:—

A Register of Applications for Copies shall be maintained by the Head Copyist in the prescribed form, separate registers being used for ordinary and urgent copies.

892. *Applications to be dealt with in serial order.*—All applications for copy shall be dealt with according to the serial numbers in the order of the dates of presentation, urgent applications being given priority over ordinary ones.

Any departure from this Rule shall be reported immediately to the Deputy Registrar with reasons for such departure and his orders shall be complied with.

893. *Requisition for record.*—The Head Copyist shall promptly make proper entries in the Register of Applications for Copies. The Head Copyist shall send the applications to the official-in-charge of the records required who will enter each in the appropriate column of the Register his signature and the date and hour on which he received the application relating to him. The official-in-charge of the record shall without delay send such application, order and stamped paper and the record to the Head Copyist and shall take from the Head Copyist, in a book to be kept for the purpose, a receipt of the date and hour when such record was delivered to him; and the Head Copyist shall enter in the appropriate column of the Register the date and hour on which he received the aforesaid record.

894. *Reference to Deputy Registrar.*—If any difficulty arises in the preparation or issue of a copy, the matter shall be referred to the Deputy Registrar for orders.

895. *Notice of defective application.*—If an application for copy does not contain sufficient information to enable the record to be traced or if the fee paid is insufficient or the application is otherwise defective, the applicant shall be informed, if present, or a notice to that effect shall be affixed on the notice board.

If the application has been received by post, the information shall be communicated to the applicant by unpaid post.

If the defect is not removed or the deficiency not paid within one week, the application shall be rejected.

896. *Delivery of copies to applicants.*—After a copy has been prepared, it shall be examined and certified to be a true copy by the superintendent of the Copying Department and each page of the copy shall be stamped with the seal of the Court.

At the end of the day, the Head Copyist shall cause all copies which have been duly certified and sealed to be delivered to the applicants, or where the requisite postage stamps have been deposited by the applicants for the purpose, to be sent to them by post, after making necessary entries in the appropriate column of the Register.

897. *Notice of ready copies.*—(i) A definite date not ordinarily exceeding seven days ahead shall be fixed for the delivery of the copy and intimated to the applicant. The copy, as far possible, shall be delivered on the date so fixed.

(ii) If for any reason the copy is not ready for delivery on the date so fixed, the applicant shall be directed to attend on another date, when the copy may be expected to be ready for delivery.

(iii) If the copy is not ready and the applicant does not appear on the date fixed, notice of the next date fixed for the delivery of copy shall be sent to him by post, if he has deposited the necessary postal charges. If necessary postal charges have not been deposited, it shall be affixed on the notice board of the Court.

(iv) When a copy is ready, and the applicant or his authorised agent is present, the copy shall be given to him. If the applicant or his authorised agent is not present, a notice over the signature of the Superintendent, Copying Department, shall be affixed to the notice board notifying that the copy is ready for delivery. If from the date of the fixing of the notice the applicant appears within 3 months, the copy shall be delivered to him.

898 *Destruction of copies which cannot be returned.*—Where a copy remains undelivered to the applicant for a period of three months after the date of affixation of the notice on the notice board under the next preceding Rule, it shall be destroyed under the orders of the Deputy Registrar, an entry to that effect being made in the remarks column of the Register of Applications.

Where a copy sent to the applicant by post under Rule 896 is received back as undelivered, it shall similarly be destroyed if it is not taken delivery of by the applicant within a period of three months from the date on which it was received back by the office.

899. *Delivery of urgent copies.*—In the case of urgent applications, copies shall be delivered to the applicant as far as possible not later than the end of the working day next after the day on which the application was presented, provided that the application is in order and the requisite fee has been duly paid.

900. *Issue of copies of certain orders the same day*—Copies of all orders passed by the Court granting bail or staying proceedings or execution or granting injunction or when so ordered by the Court shall on application and on payment of the prescribed charge be given to the Advocate for the parties on the very day on which such orders are passed and, if this be not possible, on the following day.

901. *Sending copies folios etc. by post.*—(1) Where a communication may under this Chapter be sent to the applicant by unpaid post, it may be sent to him by pre-paid post, provided that applicant has previously deposited the necessary postage stamps for the purpose. If the postage stamps so deposited are sufficient to cover registration charges also, such communication may be sent to him by prepaid registered post.

(2) Where the postage stamps deposited by the applicant are insufficient for the purpose indicated by him, the copies folios and stamps or communication as the case may be, may be sent to him in an insufficiently stamped cover.

(3) Where the applicant desires that any copies folios and stamps or communication be sent to him under registered cover, but the postage stamps deposited by him are insufficient to cover registration charges, such copies folios and stamps or communication, as the case may be, may be sent to him by ordinary post.

(4) Where the postage stamps deposited by the applicant are in excess of requirement, the unused postage stamps shall be returned to him in the same cover.

(5) Where any postage stamps cannot be returned to the sender, they may be used as service stamps after being entered in the stock book of service postage stamps.

(6) Where an unpaid or insufficiently paid cover is received back undelivered from the Post Office, the amount charged by the Post Office shall be debited under head "Contingencies".

## CHAPTER XL.

### ARRANGEMENT, PRESERVATION AND DESTRUCTION OF RECORDS.

#### SECTION A

##### *Civil Cases.*

902. *Division of record into parts.*—Each record in a civil case shall be divided into two parts to be called 'Part A' and 'Part B.'

903. *General Index.*—Each paper, as it is filed, shall be entered in a general index and shall be marked with the letter A or B according to the part to which it belongs.

904. *Parts 'A' & 'B' in Supreme Court Appeals.*—In the case of appeals to the Supreme Court, part A shall consist of the following papers, namely—

- (1) General index.
- (2) Order sheet.
- (3) Application for leave to appeal.
- (4) Court's order refusing or granting certificate.
- (5) Formal certificate granting leave to appeal.
- (6) Security bond and papers relating to cash deposit.
- (7) Compromise, waiver or confession of judgment.
- (8) Application for substitution of names and the order passed thereon.
- (9) Affidavits.
- (10) One copy of the printed record.
- (11) Letter forwarding the record to the Supreme Court.
- (12) Judgment of the Supreme Court.
- (13) All other orders of the Supreme Court.
- (14) Any other paper ordered by the Court to be included in Part 'A'.

All other papers shall be kept in Part B.

905. *Parts A & B Civil Appeals etc.*—In civil appeals, revisions and miscellaneous cases, part A shall consist of the following papers, namely—

- (1) General index.



- (2) Order sheet.
- (3) Memorandum of appeal or application.
- (4) Copy of decree or formal order under appeal or revision.
- (5) Notice with report of service in *ex parte* cases.
- (6) Memorandum of objections under rule 22 or 26 of Order XLI of the Code.
- (7) Objection or reply.
- (8) Order of remand under rule 25 of Order XLI of the Code.
- (9) Copy of findings on issues referred to the lower court for trial under rule 25 of Order XLI of the Code.
- (10) Application for substitution, addition or striking out of names of parties.
- (11) Deposition of a party or witness.
- (12) Order imposing a fine upon a witness under rule 12 of Order XVI of the Code.
- (13) Report, proceedings or examination of Commissioner.
- (14) Order of appointment, or removal, of a guardian or next friend.
- (15) Documents filed by parties.
- (16) Order impounding a document.
- (17) Affidavits.
- (18) Arbitration agreement.
- (19) Award of arbitrator.
- (20) Compromise, waiver or confession of judgment.
- (21) Court's judgment or final order along with one copy of the paper book, if any.
- (22) Court's decree.
- (23) Certificate of return of record.
- (24) Order of reference to the High Court.
- (25) Certificate of fees paid to Advocates.
- (26) Any other paper directed by the Court to be included in part A.

All other papers shall be kept in part B.

906 *Destruction of part A.*—Part A shall be retained for a period of twelve years from the first day of January following the date of judgment or final order, or where there has been an appeal to the Supreme Court, from the date of communication of the judgment or final order of the Supreme Court and shall then be destroyed excepting (1) general index, (2) judgment with compromise, if any, on which the decree is based, (3) decrees and (4) unreturned documents. These papers shall be retained permanently.

907. *Destruction of part B.*—With the exception of original translations made in First Appeals which shall be retained for a period of two years papers in part B shall be retained for a period

of one year from the first day of January following the date of judgment or final order, or where there has been an appeal to the Supreme Court, from the date of communication of the judgment or final order of the Supreme Court and then destroyed.

908. *Original trials* --In suits coming before the Court in the exercise of its ordinary or extraordinary original civil jurisdiction, the procedure prescribed for the preparation, preservation and destruction of records in subordinate civil courts shall be followed.

#### SECTION B.

##### *Matrimonial and Testamentary Cases.*

909. *Divisions of Records of in parts.*—The record, in a matrimonial suit or reference or a testamentary case shall be divided into two parts to be called parts A and B.

910. *General Index.*—Each paper, as it is filed, shall be entered in a general index and shall be marked with the letter A or B, according to the part to which it belongs.

911. *Parts 'A' & 'B'.*—Part a shall consist of the following papers, namely—

(a) In matrimonial suits or references—

- (1) General index.
- (2) Order sheet.
- (3) Petition or application.
- (4) Written statement.
- (5) Issues.
- (6) Statements of parties and witnesses.
- (7) Documents filed by parties.
- (8) Judgment.
- (9) Decrees.

(10) Any other paper directed by the Court to be included in part A.

(b) In testamentary cases—

- (1) General index.
- (2) Order sheet.
- (3) Petition for grant of probate or letters of administration with annexures A and B and copy of the will, if any.
- (4) Application including application for appointment or discharge of an executor, or for directions to the executor.
- (5) Affidavits including affidavit of valuation and affidavits of attesting witnesses.
- (6) Caveat.
- (7) Objection or written statement.
- (8) Issues.
- (9) Statements of parties and witnesses.
- (10) Documents filed by parties.
- (11) Judgment.
- (12) Decree.

- (13) Security or administration bond.
- (14) Probate or letters of administration.
- (15) Inventory.
- (16) Accounts.
- (17) Any other paper directed by the Court to be included in part A.

All other papers shall be placed in part B.

Original wills shall be kept separate in an iron safe, a note to that effect being made against the corresponding entry in the general index.

912. *Destruction of papers in Matrimonial cases.*—In matrimonial suits—

- (a) Part A shall be retained for a period of forty years from the first day of January following the date of final decision and shall then be destroyed excepting the general index, judgment and decrees, which shall be retained permanently.
- (b) Part B shall be retained for period of three years from the first day of January following the date of final decision and shall then be destroyed excepting the applications for execution of decree and custody of children and orders of the Court passed thereon, which shall be retained for a period of twenty years.

913. *Destruction of papers in Matrimonial References.*—In Matrimonial References—

- (a) Part A shall be retained for a period of twelve years from the first day of January following the date of final decree and shall then be destroyed excepting general index and the judgment and decree, which shall be retained permanently.
- (b) Part B shall be retained for a period of two years from the first day of January following the date of final decree and then destroyed.

914. *Destruction of papers in Testamentary cases.*—In Testamentary cases—

- (a) Part A shall be retained for a period of forty years from the first day of January following the date of final decision and shall then be destroyed excepting the general index, petition or application, the judgment and decree, probate or letters of administration and the original will, which shall be retained permanently.
- (b) Part B shall be retained for a period of three years from the first day of January following the date of final decision and shall then be destroyed.

SECTION C.  
*Criminal.*

915. *Division of Records into parts.*—The records in a criminal case shall be divided into two parts to be called part A and part B.

916. *General Index.*—Each paper, as it is filed, shall be entered in a general index, and shall be marked with the letter A or B according to the part to which it belongs.

917. *Parts 'A' & 'B'.*—Part A shall consist of the following papers, namely—

(a) in Original trials—

- (1) General index.
- (2) Record of the lower court.
- (3) Paper-book.
- (4) Record of evidence.
- (5) Commission, the return thereto and depositions.
- (6) Orders by the presiding Judge.
- (7) Warrant or other paper returned on execution of sentence.
- (8) Copy of order, commuting a sentence or suspending the execution thereof or remitting punishment.
- (9) Unreturned Exhibits.
- (10) Any other paper directed by the Court to be included in part A.

(b) In appeals, revisions and references—

- (1) General Index.
- (2) Grounds of appeal, application for revision or reference.
- (3) Copy of the lower court's Judgment filed.
- (4) Notice with report of service.
- (5) Judgment.
- (6) Warrant.
- (7) Printed paper book, if any.
- (8) Any other paper directed by the Court to be included in part A.

All other papers shall be placed in part B.

918. *Destruction of parts A.*—Part A shall be retained for a period of forty years from the first day of January next following the date of final decision and shall then be destroyed with the exception of the general index and the judgment of the Court which shall be retained permanently.

919. *Destruction of part B.*—Papers in part B shall be destroyed after one year from the first day January next following the date of the final decision of the case.

#### SECTION D.

##### *General.*

920. *Cases in which there has been an appeal to the Supreme Court.*—In a case in which an appeal has been filed in the Supreme Court, no paper shall be destroyed until the judgment or final order of that Court is communicated to the Court and the papers

shall thereafter be destroyed in accordance with these Rules, the period of destruction being counted as from the first day of January following the date of communication of such judgment or final order.

921. *Notice to withdraw documents*—A notice shall be fixed up in a conspicuous part of the Court-house stating that documents filed in a case which may be returned having regard to the provisions of rule 9 of Order XIII of the Code or section 294 of the Indian Succession Act, 1925, should be withdrawn as soon as the case has been finally disposed of and that if they are left in Court they will be kept at the risk of the owner.

922. *Court fee stamps to be mutilated*.—The Record-keeper when putting papers aside for destruction shall mutilate all court-fee stamps affixed to them in such manner as to make it impossible for them to be used again.

923. *Papers destroyed to be noted in the index*.—A note of every record destroyed shall be made at the time of destruction in the general index of each case under the signature of the Record-keeper.

924. *Disposal of weeded papers*.—All weeded documents and papers shall be disposed of in the following manner, namely—

- (a) Confidential papers including notes and orders on administrative matters and stamps and court fee labels shall be torn into pieces and burnt in the presence of the Court Officer.
- (b) All other papers including original documents and certified copies shall be torn across and then sold as waste paper.
- (c) Spare paper books shall be sold as waste paper without being torn.

The proceeds of the sale of waste paper shall be credited to Government.

## APPENDIX A.

## PART I.

General forms under the Rajasthan High Court Rules, 1952.

Serial number	Description	Reference to Rule
1	Order Sheet ...	69
2	Application for translation and printing ...	187
3	Estimate of the cost of preparation of a paper book ...	200
4	Certificate of advocates fee ...	292
5	Notice of Appeal ...	316
6	Notice for Contempt of Court ...	324
7	Warrant of confirmation of death sentence ...	351
8	Warrant of death when sentence of death is given by Court by enhancing the sentence ...	351
9	Warrant when sentence of death is passed by Court in appeal by the State ...	351
10	A letter forwarding a copy of the relevant entry in the order sheet ...	351
11	Application for inspection of a record ...	362
12	Application for copy of a record ...	373
13	Notice to respondent of the day fixed for the hearing of the appeal ...	247J

## FORM No. 1.

## Order Sheet.

(Rule 69)

Year.....Nature of case.....

Number of case.....

Date	Order	Brief note of compliance of the order.
------	-------	--

## FORM No. 2.

Application for Translation and Printing.

(Rule 187)

Appellate Jurisdiction.

*Civil Side*

Application under Rule.....

Particulars of previous applications—

1

2

Initial deposit of Rs. 20,000 or more

Rs...made on Deposit Valuation below Rs. 20,000

No.....Appeal No.....of 19

.....Appellant,

Signature of Cashier....

Versus

Date.....

.....Respondent.

Application Received

The Appellant  
Respondent abovementioned prays

that the papers mentioned below be translated and printed according to the Rules.

Deputy Registrar

Date... ..

The name and the address of the person to whom copy of the estimate or of any demand in connection with the application should be sent is

Name of Advocate for the applicant.

Description of file	Serial Number of paper	Description of paper with particulars of the language or script in which it is written and date.	Editor's Note	No. of words		
				English	Hindi	Other language
1	2	3	4	5	6	7

Date.....

Signature of applicant or his Advocate.  
ESTIMATE.

A.

Rs.a.p.

1. Editing ....
2. Counting ....
3. Translation at Re. 1/-  
for 150 words ....
4. Transliteration at Re.  
/4/- for 100 words ....
5. Indexing at anna one  
per paper ....
6. Copying fee, if any....
7. Map work ....
8. Miscellaneous ....

Total

B.

Rs.a.p.

1. Printing—
  - (i) Pica type at.....  
.....  
per page.....
  - (ii) Long primer at.....  
.....  
per page.....
  - (iii) Tabular matter  
at.....  
per page.....
2. Proof correcting at  
annas eight per page

Total

Total of A and B

First instalment payable by.....

Second instalment payable by .....

Superintendent,  
Judicial Department.  
Deputy Registrar.  
Date.....

Order by Editor

Order by Registrar.

Proceeding	Date	Signature	Details of expenditure	Date	Number of repayment order or credit and amount of each.	Initials of Superintendent, Accounts Department
Copy of estimate despatched		Superintendent, Judicial Department	A			
Deposit received		Cashier.	1. Counting ...			
Rs.			2. Translation ...			
No.		Superintendent, Accounts Department.	3. Transliteration ...			
			4. Copying ...			
			5. Map Work ...			
			6. Indexing ...			
			7. Editing ...			
			8. Miscellaneous ...			
			Total			
Deposit received		Cashier				
Rs.		Superintendent, Accounts Department				
No.						
Deposit received		Cashier				
Rs.		Superintendent, Accounts Department				
No.						



## FORM No. 3

ESTIMATE OF THE COST OF PREPARATION OF THE PAPER BOOK.

(Rule 200)

(For directions see copy of the Rules printed on Page 7.

HIGH COURT OF JUDICATURE FOR RAJASTHAN.

AT JODHPUR

JAIPUR BENCH.

Shri..... for.....  
 Estimate for translation, etc.  
 FIRST APPEAL No.....OF 19 .  
 .....Appellant,  
 Versus  
 .....Respondent.  
 To .....  
 .....

A—Amount payable, within 30 days from the date hereof,  
 on account of—

	Rs. a. p.	Rs. a. p.
(1) Counting fee....	...	...
(2) Translation fee at Re. 1 for 150 words		
(3) Copying fee { at.....	...	...
{ at.....	...	...
(4) Map work ...	....	..
(5) Index Charges	....	...
(6) Editor's fee ...	....	...
(7) Postage ....	....	...
		.....
Total ...		.....

B—Amount payable, within 70 days from  
 the date hereof, on account of—

(8) Charges for { Printing ....	...	...
{ Correcting proof	....	...
(9) Miscellaneous charges	...	...
Add for rounding	....	...
		.....
Total ...		.....
Total, A. and B.	...	.....
Amount already paid	..	.....
Grand Total	...	.....

Date of despatch of estimate }  
 (Rule 203 of Court Rules )

Deputy Registrar

N. B.—Money must be sent by money order if not presented personally.

## RULES 201, 202, 204, AND 205 OF THE RULES OF COURT

201. The first instalment shall consist of the estimated cost of editing, counting, translating, transliterating, indexing and copying, mapwork and other miscellaneous charges, if any, and shall be payable within thirty days of the date of the estimate or within such further time as the Registrar may, on an application having been presented within thirty days from the date of despatching the estimate, for sufficient cause shown, allow. The second instalment shall consist of the rest of the estimated cost, and shall be payable within seventy days of the date of despatching the estimate. Credit for the initial deposit shall be given in the second instalment.

202. When the paper book is not to be printed, the entire estimated amount shall be payable in a single instalment within the time allowed under Rule 201,

204. (1) If any instalment of the estimated amount is not paid within the prescribed time, the matter shall be listed along with an office report before the Registrar who may from time to time for sufficient cause shown extend the time for such payment. If such instalment is not paid within the prescribed time or within such further time as the Registrar may allow the order for translation and printing of the papers with respect to which the estimate was prepared shall abate and except as hereinafter provided the papers included in the application shall not be translated or printed in pursuance of such order.

(2) No initial deposit made on behalf of an applicant shall, where the order for translation and printing of the papers has abated, be refunded.

205. Immediately on the abatement of an order for translation and printing on an application under Sub-rule (1) or (2) of Rule 183, the appeal or the cross objection, as the case may be, shall be listed for dismissal before the Court and shall be dismissed:

Provided that if the Court is on an application having been made supported by an affidavit satisfied that there was reasonable cause for default it may order that the appeal or the cross objection, as the case may be, shall stand dismissed unless the payment is made within such further time as it may deem fit to allow:

Provided further that if payment is made in accordance with such conditional order of the Court, the abatement of the order for translation and printing shall be deemed to have been set aside.

FORM NO. 4

CERTIFICATE OF ADVOCATES FEE

(Rule-292)

In the High Court of Judicature for Rajasthan At Jodhpur  
Jaipur Bench

Case No. .... of year.

Between... ..and.....

I hereby certify that in the above case the following fee were paid to me as my exclusive fee on the dates and by the persons

specified below and that no portion of such fees has been returned and that no agreement for such return or remission has been made by me or by any one on my behalf (or on behalf of.....):—

Date of payment	Amount paid	Name of person who actually made payment	Name of person on whose behalf payment was made	Remarks
-----------------	-------------	--	---	---------

*Dated,*

*Signature of Advocate.*

Filed on the.....day of..... 19.....

By Order  
*Registrar.*

FORM No. 5.  
Notice of Appeal.  
(Rule 316)

In the High Court of Judicature for Rajasthan At Jodhpur  
Jaipur Bench

..... Versus.....  
Offence under section.....of.....  
Criminal Appeal No.....of.....  
To

Take notice that.....  
convict in..... Case No.....  
of..... on the file of the .....  
..... has appealed against the  
conviction and sentence by the.....  
..... and the said appeal has  
been fixed for hearing in this Court on the.....  
.....day of..... 19 .....

Dated this.....day of..... 19 .....

*Deputy Registrar.*

FORM No. 6.  
Notice for Contempt of Court.  
( Rule 324 )

In the High Court of Judicature for Rajasthan  
At JODHPUR  
JAIPUR BENCH

Whereas an application has been presented to this Court  
by.....for the taking of proceedings  
in contempt of Court against you for \*.....

\*Here insert the substance of allegations made against the not-petitioner.

.....  
 And whereas the.....day of.... 195 ,  
 has been fixed for the hearing of the said application by the Court.

You are hereby required to appear in person  
 in person or by pleader  
 before the Court on the date mentioned above at ..... A.M.  
 and to show cause why you should not be punished for contempt of  
 Court.

Given under my hand and seal of this Court, this.....  
 day of.....195 .

*By order of the Court,  
 Deputy Registrar.*

### FORM No. 7.

#### Warrant of Confirmation of Death Sentence. ( Rule 351 )

CRIMINAL SIDE

APPELLATE JURISDICTION.  
 No. \_\_\_\_\_ of 19 .

Versus.

*Present:--*The Hon'ble Sri Justice..... ..  
 and

The Hon'ble Sri Justice .....

Upon a perusal of the record of the proceedings held before  
 ..... Sessions Judge of..... upon the trial of  
 the prisoner ..... son of.....  
 aged....., resident of....., police circle  
 ..... district... ..in Sessions  
 Trial No. . . . . of 19 , in which the said prisoner was  
 convicted under section..... of the Indian Penal Code and  
 sentenced to death on the ..... day of..... 19 .  
 by the said Sessions Judge;

And upon reading Reference no....., dated ..... the  
 day of .. . 19 . from the said... .. Sessions Judge  
 of... .. to this Court for confirmation of the said  
 sentence of death;

And upon the hearing of the appeal on behalf of the prisoner  
 aforesaid on the... .. day of... .. 19 by this  
 Court .. . appearing on behalf of the prisoner  
 aforesaid and... .. appearing on behalf of the State:

It is ordered.—

That the appeal be and it hereby is dismissed and that the  
 conviction and the sentence of death passed upon the prisoner  
 aforesaid be and they hereby are confirmed, and it is directed that  
 the said sentence be carried out according to law.

Given under my hand and the seal of the Court, this the  
 ... .. day of... .. 19 .

Judge.

Judge.

No... ..dated           , the... ..

day of... ....19 .

## Sessions Judge

Copy forwarded to the \_\_\_\_\_ for information and necessary action.  
District Magistrate  
Deputy Registrar,

Deputy Registrar,  
Jodhpur

Jaipur Bench

## FORM No. 8.

**Warrant of death when sentence of death is given by court by  
Enhancing the sentence.**

(Rule 351)

Criminal Side.

Revision No .. ..... of.....19

Versus

PRESENT:—The Hon'ble Shri Justice... ..  
and

and

The Hon'ble Shri Justice . . . . .

Upon a perusal of the record of the proceedings held before, .

.....Sessions Judge of... .. upon the trial of

the prisoner . . . son of . . . aged . . .

resident of .. ... police circle . ... .. district..... in

Sessions Trial No .. of 19 , in which the said prisoner was

convicted under section .. ... of the Indian Penal

Code and sentenced to .. ... .. on the .. day of .....

19 by the said Sessions Judge and upon the hearing of the case by

the Court, ..... appearing on behalf of the said prisoner and.....

appearing on behalf of the State.

It is ordered:—

The said conviction be and it hereby is .. ...and

that the sentence of ... be and it hereby is enhanced to one of

death, and it is directed that the prisoner.....aforesaid be

hanged by the neck till he is dead.

Given under my hand and the seal of the Court this the.....

day of ..... 19

Deputy Registrar,  
Jodhpur

Judge.

• Judge

Jaipur Bench

Jodhpur

No.....dated \_\_\_\_\_, the  
Jaipur

day of .. ...

.....19

Sessions Judge

Copy forwarded to the \_\_\_\_\_ for information and necessary  
District Magistrate  
action.Deputy Registrar,  
Jodhpur

Jaipur Bench.

## FORM No. 9.

Warrant when sentence of death is passed by Court in appeal by the State.  
(Rules 351)

Criminal Side

Appeal No. ... of 19 .

Versus

*Present.*—The Hon'ble Shri Justice....  
and

The Hon'ble Shri Justice .

Upon a perusal of the record of the proceedings held before  
... Sessions Judge of... upon the trial  
of the prisoner ... son of... aged...  
resident of ... police circle... district...  
in Sessions Trial No. ... of 19 in which the  
said prisoner was convicted under section ... of the Indian  
Penal Code:And upon the hearing of the appeal on behalf of the State on  
the .. day of ... 19 by the Court..  
appearing on behalf of the State and ... appearing  
on behalf of the prisoner:

It is ordered:—

That the appeal be and it hereby is allowed, that the acquittal  
of the prisoner aforesaid be and it hereby is set aside and that the  
prisoner aforesaid be and he hereby is convicted under section ...  
... of the Indian Penal Code and sentenced  
to death, and it is directed that... the prisoner  
aforesaid be hanged by the neck till he is dead.Given under my hand and the seal of the Court this the  
... day of... 19 .

Deputy Registrar,

Judge.

Jodhpur

Jaipur Bench.

Judge.

No .....dated Jodhpur the day of .....19 .  
Jaipur

Copy forwarded to the Sessions Judge  
District Magistrate for information and  
 necessary action.

Deputy Registrar,  
Jodhpur  
Jaipur Bench.

## FORM No. 10.

A letter forwarding a copy of the Relevant Entry in the Order Sheet.  
 (Rule 351)

In the High Court of Judicature for Rajasthan at Jodhpur  
Jaipur Bench  
 .... Versus ....  
 Appeal  
 ..... No. .... of . .  
 Revision

To

Dated.....the . . . . .19

A copy of the relevant entry in the order sheet in the above  
 case is herewith forwarded for information and necessary action.  
 This refers to your order (decision) dated..... in case  
 No .. of..... of your court. An entry of  
 the result should be made in the proper register of your court, and  
 the copy should be filed with the record of the case.

The record of the case in your court received from.....  
 is being forwarded to.....

Deputy Registrar

## FORM No. 11.

Application for inspection of a record  
 (Rule 862)

To

The Deputy Registrar,

High Court of Judicature for Rajasthan at Jodhpur  
Jaipur Bench

I beg to apply for permission to inspect the record of the case  
 mentioned below:—

I am \* .....  
 in the case. %

The application is @.....  
*Particulars of the record of which inspection is sought.*

1. Of what Court.
2. Kind of case.
3. Number and year.

4. Names of parties.

5. Date of decision (or hearing if pending)

Signature.....

Date.....

Inspection commenced at.....

Office report

.....on.....19.

Inspection concluded at.....

Signature with date.

... ..

Inspection fee already paid with

Order for inspection

application—Rs.... ..

Additional fee, if any, paid—Rs...

.....

*Deputy Registrar.*

Date .....

Note.—\*Here enter whether applicant is the complainant, accused etc. or the complainant's/accused's/ agent or counsel, as the case may be—or (if the applicant is not a party—or his agent or counsel) that he is not a party to the case.

% If the applicant is not a party or his agent or counsel, the reasons for which he wants an inspection should be stated here.

@ Here enter 'Ordinary' or 'Urgent'.

## FORM No. 12.

Application for Copy of a Record  
(Rule 873)

To

The Deputy Registrar,

at Jodhpur

High Court of Judicature for Rajasthan

Jaipur Bench

In .. .. .case No... ..of... ..

... .. .Versus... ..

Decided

.....on.....by the Court of.....

Fixed for hearing

... .. .

Copy

Kindly grant one certified..... of the papers named in

Copies

the following list from the record of the above mentioned case, for which I tender copying sheets of the value of Rs.....as.....

The application is#... ..

%I am .. .. .  
in the case.

My address is .. .. .

... .. .

... .. .

.....



## L I S T

Serial Number	Full particulars of the paper of which a copy is sought	Number of Copies required	The purpose for which the copy is sought	Remarks.
1	2	3	4	5

Date .....

*Signature of applicant or  
his advocate.*

Note.—1 \*Here state whether the application is “urgent” or “ordinary”.

%Here state the applicant's status in the case. If he is not a party to the case state so.

\*\*Here insert whether the applicant wants the copy to be sent to him by post.

Note.—2 Sufficient postal stamp should be sent if the copy is to be sent by post.

## FORM No. 13.

Notice to Respondent of the day Fixed for the hearing of the Appeal

(O- XLI. R.14)

(Title)

Appeal from the .....of the Election Tribunal of...

.....dated the .....day of .....19 .

## RESPONDENT

Take notice that an appeal from the order of the Election Tribunal .....in this case has presented by and registered in this Court, and that the .....day of.....19 , has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, your pleader, or by some one by law authorised to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and the seal of the Court, this day of.....19 .

JUDGE

Note.—If a Stay of execution has been ordered, intimation should be given of the fact on this notice.

## APPENDIX—A. (Continued).

## PART II.

Forms under Chapter XXIV of the Rajasthan High Court Rules, 1952.—

Serial No.	Description.	Reference to Rule
1	Certificate of practice in a Court. ....	424
2	Certificate of enrolment as advocate ....	425
3	Certificate that the name of a person is borne on the roll of advocates ....	429
4	Application for enrolment as a pleader ....	445
5	Certificate of admission of pleader (Section 7 Legal Practitioners Act, 1879) ....	446
6	Certificate of admission of pleader (Section 7, Legal Practitioners Act, 1879) ....	446
7	Order of permission to pleader to practise independently ....	453
8	Certificate of renewal of licence of pleader first grade ..	456
9	Certificate of renewal of licence of pleader first grade under training ..	456
10	Certificate of renewal of licence of pleader second grade ...	456

## FORM No. 1.

Certificate of practice in a court.

( Rule 424 ).

I... ..do  
 certify that to the best of my belief... ..  
 ... ..practised in... ..  
 ... ..regularly as a pleader from  
 the date of .. 19 , and  
 that he was diligent and faithful in the performance of his duties  
 and that he is fit and proper person to be admitted as an Advocate.

## FORM No. 2.

High Court of Judicature for Rajasthan.

Certificate of Enrolment as Advocate.

( Rule 425 ).

Roll No.....  
 I do hereby certify that Shri....  
 ....  
 son of Shri... ..  
 of... ..has been admitted  
 and enrolled as an Advocate of the High Court of Judicature for  
 Rajasthan with effect from .. 195 ..  
 Dated Jodhpur the... ..day of....

Signed and sealed by the order of the High Court.

Registrar.

## FORM No. 3.

Certificate that the name of a person is borne on the roll of advocates.  
( Rule 429 )

High Court of Judicature for Rajasthan  
Jodhpur.

Register No.... ..of.... .. 19 ..

I do hereby certify and declare that the name of... ..

... ..  
is borne on the Roll of Advocates of the High Court of Rajasthan  
on this date.

Given under my hand and the seal of the Court, this .. ..

... ..day of... ..19 ..

SEAL

Registrar.

## FORM No. 4.

Application for Enrolment as a Pleader.  
( Rule 445 )

COURT FEE STAMP

To

THE REGISTRAR,  
RAJASTHAN HIGH COURT, JODHPUR.

I beg to apply for enrolment as a pleader... ..

... ..grade.

The particulars required are stated below:—

- |   |      |      |      |      |
|---|------|------|------|------|
| (1) Name  | .... | .... | .... | .... |
| (2) Father's name   | .... | .... | .... | .... |
| (3) Place of residence  | .... | .... | .... | .... |
| (4) Place of Business   | .... | .... | .... | .... |
| (5) Qualifications  | .... | .... | .... | .... |
| (6) Whether the applicant holds any salaried appointment or carries on any trade or business. | .... | .... | .... | .... |
| (7) Whether the applicant has ever been convicted of any offence by a Criminal Court.         | .... | .... | .... | .... |

The required certificates as detailed below are submitted herewith:

- (a) Diploma or certificate of qualifications.
- (b) Two testimonials of good character.

Applicant.

## FORM No. 5.

High Court of Judicature for Rajasthan at Jodhpur

Certificate of admission of Pleader.

Section 7, Legal Practitioners Act, 1879.

(Rule 446)

Pursuant to the Legal Practitioners Act, 1879, I hereby certify that Shri....  
 .... son of Shri....  
 ....whose chief place  
 of business is at....  
 has been admitted a pleader of the ..  
 grade and on his filing in this court a certificate in writing by a  
 senior Practitioner as prescribed by Rule 449 of the Pleaders Rules  
 that he has read with him for six months, has attended regularly  
 with him in Court and Chambers and has worked diligently, will be  
 authorised to appear, plead and act in all subordinate courts and  
 Revenue Offices in the district in which he may enrol himself, upto  
 the end of the current calendar year.

Given under my hand and the seal of the Court this.....

....day of.... 195 .

*Registrar.*

#### FORM No. 6.

In the High Court of Judicature for Rajasthan at Jodhpur.

(Certificate of admission of Pleader)

(Section 7, Legal Practitioners Act, 1879).

(Rule 446)

Pursuant to the Legal Practitioners Act, 1879, I hereby  
 certify that Shri ..  
 son of Shri  
 whose chief place of business is at  
 has been admitted as a pleader of the  
 grade and is authorised to appear, plead and act in all subordinate  
 courts and Revenue Offices in the District in which he may enrol  
 himself, upto the end of the current calendar year.

Given under my hand and the seal of the Court this ..

....day of.... 195 .

*Registrar,*

*Rajasthan High Court, Jodhpur*

#### FORM No. 7.

In the High Court of Judicature for Rajasthan at Jodhpur.

Order of permission to Pleader to practise independently.

(Rule 453)

Register No. ....

A certificate of training as required under rule 449 of the  
 Rules for the admission and enrolment of Pleaders submitted by  
 Shri.... son of  
 Shri .... Pleader,  
 First Grade through District Judge...  
 dated.... 195 , has been accepted by the High  
 Court and subject to the terms and condition of his certificate of  
 enrolment, the said Shri... is  
 hereby authorised to practise on his own account.

Given under my hand and the seal of the Court, this .....

... ..day of.... ....195 .

*Registrar,*

*Rajasthan High Court, Jodhpur.*

### FORM No. 8.

Court of the District Judge.... ..

Register No..... ..of 195 .

**Certificate of renewal of Licence of Pleader First Grade.**

(Rule 456).

The Certificate issued under the signature of the... ..

... ..on the.... ..

day of ... ..to Shri .. ..

... ..son of Shri .. ..

Pleader, First Grade, having been cancelled and retained by me, this renewed certificate is issued authorising the said.... ..

... ..to appear, plead and act in all Subordinate Courts and Revenue Officers in the District in which he may enrol himself, upto the end of the current calendar year 195 .

Given under my hand and the seal of the Court, this.....

... ..day of.... ....195 .

*District Judge.*

### FORM No. 9.

Court of the District Judge . . . . .

Register No. . . . . of 195

**Certificate of renewal of licence of Pleader 1st Grade under training.**

(Rule 456)

The certificate issued under the signature of Registrar, Rajasthan High Court, Jodhpur on the . . . . .day of .

... ..195 to Shri .. ..

son of Shri . . . . ., pleader 1st Grade having been cancelled and retained by me, this renewed certificate is issued to the said.... .. and on

his filing before the High Court a certificate in writing by a Senior practitioner as prescribed by Rule 449 of these Rules that he has read with him for six months, has attended regularly with him in Court and Chambers and has worked diligently and on the High Court accepting that certificate and permitting him to practise on his own account, he will be authorised to appear, plead and act in all subordinate courts and Revenue offices in the District in which he may enrol himself, upto the end of the current calendar year.

Given under my hand and the seal of the Court, this .....

... ..day of.... ....195 .

*District Judge.*

### FORM No 10

Court of the District Judge..... ..

Register No. . . . . of 195 .

**Certificate of renewal of Licence of Pleader second Grade**

( Rule 456 )

The certificate issued under the signature of the.....  
...on the... ..day of.....  
...to Shri... ..  
son of Shri .. ..  
Pleader, Second Grade, having been cancelled and retained by me,  
this renewed certificate is issued authorising the said... ..  
...to appear, plead and act in the  
following Court viz... ..upto  
the end of current calendar year 195 .

Given under my hand and the seal of the Court, this....  
...day of... ..195 .  
*District Judge.*

APPENDIX—A (*Continued*).

## PART III.

Forms under Chapter XXVIII of the Rajasthan High Court Rules, 1952.

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4	Order when Creditors are entitled to object ....	533
5	Advertisement of Presentation of Petition ....	534
6	Affidavit verifying List of Creditors ....	536
7	Notice to Creditors ....	538
8	Advertisement of List of Creditors ....	539
9	Affidavit of List of persons who have sent in claims (with exhibits D and E) ....	541
10	Notice to Creditors to come in and prove debt. ....	542
11	Affidavit of Creditor in proof debt. ....	542
12	Advertisement of day fixed for hearing of petition....	547
13	Petition by Company ....	553
14	Petition by unpaid creditor ....	553
15	Affidavit verifying Petition ....	554
16	Advertisement of Petition ....	556
17	Affidavit of service of Petition on Officer or servant of the Company ....	557
18	Affidavit of service of Petition on Liquidator. ....	557
19	Notice of intention to appear at the hearing of a petition ..	559
20	List of persons attending at the hearing of a petition ...	565
21	Order for winding up by the Court ...	566
22	Order for winding up, subject to supervision. ....	566
23	Notice of winding up order to Registrar of Companies ...	567
24	Notice to Official Receiver of winding up order. ....	567
25	Advertisement of order of winding-up ...	569
26	Order for appointment of a Provisional Liquidator. ....	571
27	Advertisement as to appointment of Official Liquidator ...	573
28	Form of nomination of Official Liquidator ....	574
29	Security Bond by Official Liquidator and Surety ....	576
30	Affidavit by Sureties ...	576
31	Certificate that Official Liquidator has given security ...	577
32	Order appointing an Official Liquidator ....	580
33	Advertisement of appointment of Official Liquidator ...	581

34	Liquidator's statement of account ....	582
35	Affidavit verifying liquidator's Account ....	582
36	Direction to open Bank Account. ...	586
37	Request to invest Cash in Government securities. ....	590
38	Advertisement for creditors ...	613
39	Affidavit of creditor in proof of debt ...	615
40	Proof of debt of workmen ....	622
41	Notice to Creditors to prove their debts before the Official Liquidator ...	623
42	Affidavit of Official Liquidator as to debts and claims (with I and II Parts) ...	626
43	Notice to Creditors to prove as much of their debts as is not admitted before the Judge ....	626
44	Certificate as to settlement of List of debts and claims ...	628
45	Notice of preliminary settlement of the list of contributories ...	633
46	Affidavit of service of notice ..	633
47	Preliminary list of contributories made out by the Official Liquidator ...	6
48	Notice to contributories of settlement of list of contributories by the Judge ....	635
49	Endorsement by Judge on Settlement of list of contributories ...	636
50	Petition for leave to make a call ...	641
51	Advertisement of intended call ....	642
52	Order giving leave to make a call ....	643
53	Notice to be served with the order sanctioning a call ...	643
54	Petition to enforce call ...	644
55	Order for payment of call due from a contributory ..	644
56	Affidavit of service of order for payment of call. ....	644
57	Advertisement as to declaration of a dividend. ....	655
58	Notice of dividend ....	655
59	Authority to liquidator to pay dividends to another person ...	657
60	Schedule of contributories to whom a return is to be paid ...	658
61	Notice of return to contributories " ...	658
62	Notice of Meeting - ...	660
63	Affidavit of posting of notices of Meeting ....	661
64	Nomination of Chairman of a meeting ...	664
65	Report of result of meeting of creditors or contributories ...	674
66	Form of proxy " ...	676
67	Summons under Section 195 of the Indian	



	Companies Act, 1913 ....	685
68	Order directing a public examination ....	689
69	Order appointing a time for public examination..	690
70	Notice to attend public examination ....	690
71	Warrant against person who fails to attend examination . ....	691
72	Report to the Court where person examined refuses to answer to satisfaction of Registrar or Officer ... ..	694
73	Disclaimer ... ..	698
74	Notice of disclaimer of leave ....	698
75	Particulars with respect to the proceedings in and position of liquidation ....	711
76	Affidavit verifying liquidator's statement as to the position of the liquidation . .	711
77	Return of final winding-up Meeting (Pursuant to Section 208-E) ... ..	714
78	Return of final winding-up Meetings, of members and Creditors ... ..	714
79	Declaration of Solvency ... ..	715
80	Notice of appointment of liquidators (pursuant to Section 214 ) ( Member's Voluntary Winding-up ) ... ..	716
81	Notice of appointment of liquidators (pursuant to Section 214 ) ( Winding-up voluntarily by Creditors) ... ..	716
82	Certificate of passing Final Account ...	719
83	Order of dissolution of the Company ...	720
84	Form of Order Transferring Winding-up pro- ceedings from High Court to District Court ....	724
85	Form of Order Transferring Winding-up proce- dings from one District Court to another ....	724
86	Form of Order transferring proceedings from a District Court to the High Court. . . .	724

(An appropriate title, in accordance with the General Readings prescribed by Rule 523, must be inserted at the head of every form when used).

### FORM No. 1.

#### Affidavit Verifying Petition.

(Rule 526)

(TITLE)

I, A. B, of.....make oath (or do solemnly affirm) and say as follows;

1. I am a (Director, or Secretary, etc., as the case may be) of.....Ltd., the petitioning Company and as such I am fully acquainted with the affairs of the said Company.

2. Such of the statements in the foregoing petition (or in the petition now produced and shown to me and marked with the letter "A") as relate to the acts and deeds of the said Company (or, to my own acts and deeds) are true to my own knowledge and such of the statements as relate to the acts and deeds of any other person or persons I believe to be true.

Sworn (or solemnly affirmed), etc.

Note.—Paragraph I will be necessary only in cases where the petitioner is a limited company.

### FORM No. 2.

#### Petition for Reduction of Capital

(Rule 529)

(TITLE)

The humble petition of the above named company (hereinafter called the Company)

SHEWETH;—

1. That the Company was incorporated on the ..... day of 19.... under the provisions of the Indian Companies Act, 1913, as a Company Limited by shares.

2. That the registered office of the Company is situated at ..... (a).

3. That the objects of the Company are as follows: (b).

4. That the nominal capital of the Company is Rs ..... divided into ..... shares of Rs .... each of which ..... have been issued and are fully paid up or credited as fully paid up.

5. That shortly after its incorporation the Company commenced to carry on and it has since been and still is carrying on business.

6. That by Article .. of the articles of Association of the Company it is provided that the Company may (set out article or Articles of Association authorising a reduction of capital).

7. (Set out the reasons for reduction stating all material facts and circumstances)

8. That under the provisions of section 55 of the Indian Companies Act, 1913, and in pursuance of the powers in that behalf contained in the said Articles of Association the Company by a special resolution of its share-holders duly passed at an Extraordinary General Meeting duly convened and held on the ..... day of .. 19 .., resolved:—

(Set out the special resolution for reduction of capital)

9. That the reduction of capital does not involve either the diminution of liability in respect of unpaid capital or the payment to any share-holder of any paid-up capital, and in consequence no creditor is entitled to object to the reduction under the provisions of section 58 of the said Act. (c)

10. (If the petition asks that the use of the words "and Reduced" be dispensed with, here state the reasons.)

11. That the form of minute proposed to be registered under the provisions of section 61 of the said Act is as follows:

(Set out proposed Minute of Reduction.)

Your Petitioners therefore humbly pray .....(d).

(1) that the reduction of capital to be effected by the special resolution set out in paragraph 8 hereof be confirmed and that the minute set forth in paragraph 11 hereof be approved by the Court;

(2) that the addition of the words "and Reduced" to the Company's name be dispensed with;

(3) that such further or other orders may be made as to the Court shall seem fit.

*Petitioner's Advocate.*

*Petitioners.*

### VERIFICATION

I. .... of ..... make oath (or, solemnly affirm) and say as follows:

1. That I am a (Director) of the petitioner company and as such I am fully acquainted with the affairs of the said company.

2. That the facts stated in foregoing petition are true to my knowledge.

Sworn (or, solemnly affirmed), etc.

(a) State full address of the Registered Office.

(b) State principal objects according to Memorandum of Association.

(c) Omit if creditors are entitled to object to the reduction.

(d) Omit or alter prayer (2) according to circumstances.

### FORM No. 3.

#### Advertisement of Presentation of Petition.

(Rule 331)

( T I T L E ).

Notice is hereby given that a petition has been presented to the abovenamed Court for an order confirming the reduction of the share capital of the abovenamed Company from Rs .... to Rs ..... resolved on by the special resolution passed at an extraordinary general meeting of the Company held on the ... day of ... 19 ..

The said petition is directed to be heard by the said Court on ..... day, the ..... day of .... 19 ..

*Advocate for the Company.*

### FORM No. 4

#### Order when Creditors are Entitled to object

(Rule 533)

(T I T L E)

Upon the application of the petitioners dated ..... and upon hearing the Advocate for petitioners and upon reading the petition filed on the day of... IT IS ORDERED that an enquiry be made as to what are the debts, claims and liabilities of or affecting the said Company on the.....day of .....19. and that a list of creditors of the said Company as

at the last mentioned date and the affidavit verifying the same be filed in the High Court on or before the .. .. day of .....  
 ...19, and that notice of the presentation of the said petition and of this order directing an enquiry into the debts of the Company be advertised in .. .. issue (s) of ..... and of .....  
 on the .. .. day of .. .. 19.

AND IT IS FURTHER ORDERED that any creditor whose name does not appear in such list, or who claims to be a creditor for a larger amount than that for which he is entered on such list, shall on or before the .. .. day of ... 19, send in his name and address and the particulars of his debt or claim and the name and address of his advocate (if any) to the advocate of the Company;

AND IT IS FURTHER ORDERED that the notice of the day fixed as last aforementioned be given in writing by registered post to every creditor whose name appears in such list;

AND IT IS FURTHER ORDERED that an affidavit stating the result of such notices and verifying the names and addresses of the persons (if any) who shall have sent in particulars of their debts and claims in pursuance of such notice, and the amount of such debts or claims distinguishing which (if any) of such debts are admitted to be due by the Company wholly or in part and as to what part thereof, and which (if any) of such debts or wholly denied and which of such debts (if any) the Company contends are not included in the enquiry, be made by the said advocate of the Company and some Competent Officer or Officers of the Company on or before the .. .. day of .. .. 19.

#### FORM No. 5

##### Advertisement of Presentation of Petition

(Rule 534)

( T I T L E ).

Notice is hereby given that a petition for confirming the reduction of the capital of the above Company from Rs to Rs .. .. was on the .. .. day of .. .. presented in this Court and is now pending, and that an enquiry into the debts and liabilities of the Company as on the .. .. day of ..... 19 has been directed by the Judge.

*Advocate for Petitioner.*

#### FORM No. 6

##### Affidavit verifying list of Creditors

(Rule 536)

( T I T L E ).

I, A.B. of .. .., etc, make oath (or, do solemnly affirm) and say as follows:—

1. The paper writing now produced and shown to me and marked with the letter A, contains a list of the creditors of and persons having claims upon the said Company on the .. .. day of ..... 19 ..... (the date fixed by order in

this matter dated the ..... day of ..... 19 .., together with their respective addresses, and the nature and amount of their respective debts or claims, and such list is, to the best of my knowledge, information and belief, a true and accurate list of such creditors and persons having claims on the day aforesaid.

2. To the best of my knowledge and belief there was not, at the date aforesaid, any debt or claim which, if such date were the commencement of the winding up of the said Company, would be admissible in proof against the said Company other than the debts set forth in the said list. I am enabled to make this statement from facts within my knowledge as the ..... of the said Company, and from information derived upon investigation of the affairs and the books, documents and papers of the same Company.

Sworn (or solemnly affirmed), etc.

List of Creditors referred to in the last Form

A

( T I T L E )

This list of Creditors, marked A, was produced and shown to A. B., and is the same list of creditors as is referred to in his affidavit sworn before me this day of ..... 19 ..

Names, addresses and description of the creditors.	Nature of debt or claim.	Amount of debt or claim.
--	--------------------------	--------------------------

Commissioner for oaths,

FORM No. 7.

Notice to Creditor

(Rule 538)

( T I T L E )

To

You are requested to take notice that a petition has been presented to this Court to confirm a reduction of the capital of the above Company from Rs. .... to Rs. .... and that in the list of persons admitted to have been creditors of the Company on the ..... day of ..... 19 .., your name is entered as a creditor of the said Company for the sum of Rs. .... in respect of (here state nature of debt or claim as in list of creditors);

If you claim to have been on the last mentioned day a creditor to a larger amount than is stated above you must on or before the ..... day of ..... 19 .., send the particulars of your claim and the name and address of your advocate or ..... pleader (if any) to the undersigned at ..... In default of your so doing the above entry in the list of creditors will, in all proceedings under the above petition to reduce the capital of the Company, be treated as correct.

Dated the ..... day of ..... 19 ..

*Advocate of the Company.*

## FORM No. 8.

## Advertisement of list of Creditors.

(Rule 539)

( T I T L E )

Notice is hereby given that a petition has been presented to this Court to confirm a reduction of the capital of the above Company from Rs ..... to Rs .... A list of the persons admitted to have been creditors of the Company on the ... day of..... 19 , may be inspected at the office of the Company at ..... or at the office of , at any time during usual business hours on payment of the charge of Re. 1.

Any person who claims to have been on the last mentioned day and still to be a creditor of the Company and who is not entered on the said list and claims to be so entered, must on or before the.... day of 19 , send in his name and address, and the particulars of his claim, and the name and address of his advocate (if any) to the undersigned at... .. or in default thereof he will be precluded from objecting to the proposed reduction of capital.

Dated this .... day of ... 19 .

*Advocate for the Company.*

## FORM No. 9.

Affidavit of list of persons who have sent in Claims (with exhibits D and E).

(Rule 541)

(TITLE).

WE, C. D. of, etc., E. F. of etc., and A. B. of etc., severally make oath (or, solemnly affirm) and say as follows:

I, the said C. D. for myself, say as follows:—

1. I am the Secretary of the said Company and A. B. is a Director thereof, I did, on the ..... day of... 19 , in the manner hereinafter mentioned serve a true copy of the notice now produced and shown to me, and marked B, upon each of the respective persons whose names and addresses and descriptions appear in the first column of the list of creditors, marked A, referred to in the affidavit of ..... filed on the ..... day of ..... 19 .

2 I served the said respective copies of the said notice by putting such copies, respectively, duly addressed to such persons respectively, according to their respective names and addresses appearing in the said list (being the last known addresses or places of abode of such persons respectively) and with the proper postage stamps affixed thereto as pre paid letters into the Post Office at ..... between the hours of ... and .. of the clock in the noon of the said day of ... 19 .

And I, the said E. F., for myself, say as follows:—

3. I am the advocate (or pleader) of the said Company, A true copy of the notice now produced and shown to me, and marked

C, has appeared in the ..... of the ..... day of..... 19 , the ..... of the ... .. day of..... 19

4. I have, in the paper writing now produced and shown to me, and marked D, set forth a list of all claims, the particulars of which have been sent in to me pursuant to the said notice B now produced and shown to me by persons claiming to be creditors of the Company for larger amounts than are stated in the list of creditors, marked A, referred to in the affidavit of ..... filed on the ..... day of ..... 19 .

5. I have, in the paper writing now produced and shown to me, marked E, set forth a list of all claims, the particulars of which have been sent in to me pursuant to the notice referred to in the third paragraph of this affidavit by persons claiming to be creditors of the said Company on the..... day of... .. 19 , not appearing on the said list of creditors, marked A, and who claimed to be entered thereon.

And we, C. D. and A. B. for ourselves, say as follows:—

6. We have, in the first part of the said paper writing, marked D (now produced and shown to us), and also in the first part of the said paper writing, marked E (also produced and shown to us), respectively, set forth such of the said debts and claims as are admitted by the said Company to be due wholly or in part, and how much is admitted to be due in respect of such of the same debts and claims, respectively, as are not wholly admitted.

7. We have, in the second part of each of the said paper writings, marked D and E, set forth such of the said debts and claims as are wholly disputed by the said Company.

8. In the said exhibits D and E are distinguished such of the debts the full amounts whereof are proposed to set apart, and appropriated in such manner as the Judge shall direct.

Sworn (or solemnly affirmed), etc.

Exhibit D. referred to in the last-mentioned Affidavit.

D.

(TITLE).

List of debts and claims of which the particulars have been sent in to ..... by persons claiming to be creditors of the said Company for larger amounts than are stated in the list of creditors made out by the Company.

This paper writing, marked D, was produced and shown to C. D., E. F., and A. B., respectively, and is the same as is referred to in their affidavit sworn (or, solemnly affirmed) before me this ..... day of..... 19 .

First Part—Debts and claims wholly or partly admitted by the Company.

Names, addresses and descriptions of creditors	Particulars of debts or claims	Amount claimed	Amount admitted by the Company to be owing to creditors	Debts proposed to be set apart & appropriated in full although disputed
--	--------------------------------	----------------	---	---

**Second Part—Debts and claims wholly disputed by the Company.**

Names, addresses and descriptions of claimants	Particulars of claim	Amount claimed	Debts proposed to be set apart and appropriated in full although disputed
--	----------------------	----------------	---

**Exhibit E. referred to in the last-mentioned Affidavit.**

**E.**

**(TITLE)**

LIST of debts and claims of which the particulars have been sent in to ..... by persons claiming to be creditors of the Company and to be entered on the list of creditors made out by the Company.

This paper writing, marked E, was produced and shown to C. D., E. F., and A. B., respectively and is the same as is referred to in their affidavit sworn or solemnly affirmed before me this ..... day of ..... 19 ..

First Part—(As in Exhibit D).

Second Part—(As in Exhibit D).

NOTE.—The names are to be inserted alphabetically.

**FORM No. 10.**

**Notice to creditors to come in and prove Debt.**

(Rule 542).

(TITLE).

To

You are hereby required to come in and prove such part of the debt claimed by you against the above Company, as is not admitted by the latter; by filing your affidavit, and giving notice thereof to me, the Advocate of the said Company, on or before the ..... day of ..... 19 ..... next; and you are to attend in person or by your Advocate in this Court on the ..... day of ..... 19 , at ..... O'Clock in the noon, being the time appointed for hearing and adjudicating upon the claim, and produce any securities or documents relating to your claim.

In default of your complying with the above directions you will be precluded from objecting to the proposed reduction of the capital of the Company (or, in all proceedings relative to the proposed reduction of the capital of the Company, be treated as a creditor, for such amount only as is set against your name in the list of creditors ).



Dated this .....day of.....19 ..

*Advocate for the Company.*

### FORM No. 11.

#### Affidavit of Creditor in Proof of Debt.

( Rule 542 ).

( TITLE ).

I .....of .....make oath  
(or solemnly affirm) and say as follows:—

1. (If the affidavit is not made by the creditor personally the deponent must here state his authority for making the affidavit and his means of knowledge.)

2. The abovenamed Company is justly and truly indebted to me (for, to the said... ..) in the sum of Rs. .... for..... ..(here describe shortly the nature of the debt and exhibit any security for it, and in the case of a trade debt exhibit vouchers).

3. I have not, nor has nor have any person or persons by my order or to my knowledge or belief for my use, received the said, sum of Rs. .... or any part thereof, or any security or satisfaction for the same or any part thereof ( except the security hereinbefore referred to ) (a).

Sworn ( or, solemnly affirmed ), etc.

(a) Paragraph 3 will be adopted in the case of a person other than the creditor being the deponent.

### FORM No. 12.

#### Advertisement of day fixed for hearing of Petition.

(Rule 547)

( T I T L E )

NOTICE is hereby given that a petition presented to this Court on the .....day of..... 19 .., for confirmation of the reduction of the capital of the above Company from Rs. .... to Rs ..... is directed to be heard by this Court on the.....day of.....19 ..

*Advocate for the Company.*

### FORM No. 13.

#### Petition by Company.

(Rule 553)

[ T I T L E ]

The humble petition of the abovenamed Company (hereinafter called the Company).  
*Sheweth*—

1. That the Company is a company duly incorporated under the Indian Companies Act, 1913.

2. That the registered office of the Company is at (a).

3. That the nominal capital of the Company is Rs..... divided into... .. of which .....have been issued and are fully paid up or credited as fully paid up.

4. That the objects of the Company are as follows (b).

5. (Here set out in numbered paragraphs the facts on which the petitioner relies, and in the case of an application for a supervision order the date of the winding-up resolution and the appointment of Liquidator and conclude as follows):—

Your petitioner therefore humbly prays:—

(1) That the Company may be wound up by the Court (a) under the provisions of the Indian Companies Act, 1913.

(2) Or that such other order may be made in the premises as shall be just.

Dated

Petitioner's Advocate:

Petitioner.

(a) State the full address of the registered office.

(b) State principal objects according to Memorandum of Association.

(c) Or under the supervision of the Court.

FORM No. 14.

Petition by unpaid Creditor.

(Rule 553)

( T I T L E )

The humble petition of ..... a creditor of the abovenamed Company (hereinafter called the Company).

*Sheweth.*—

Paragraphs 1, 2, 3 and 4 as in form No. 1.

5. The Company is indebted to your petitioner in the sum of Rs. for (a).

6. On the ..... day of ..... 19 , your petitioner served (or caused to be served by A. B. of) on the Company by leaving the same at its registered office a demand under his hand in the words and figures following:—

(Set out demand in full)

7. The Company has neglected to pay the said sum of Rs. or to secure or compound for it to the reasonable satisfaction of your petitioner.

8. The Company is (insolvent and) unable to pay its debts.

9. In the circumstances it is just and equitable that the Company should be wound up.

Your petitioner, therefore, etc. (as in Form No. 13).

(a) State consideration for the debt, with particulars so as to establish that the debt is due.

FORM No. 15.

Affidavit Verifying Petition.

(Rule 554)

( T I T L E )

I, A. B. of....., etc. make oath (or, solemnly affirm) and say that the statements in paragraphs Nos. ....in the petition now produced and shown to me, and marked with the letter A, are true to my knowledge, and the statements in paragraphs Nos.....in the said petition are

based on information received (state source of information) which I believe to be true. The statements contained in paragraphs 1, 2, 3 and 4 of the said petition are matters of record.

Sworn (or solemnly affirmed), etc

### FORM No. 16.

#### Advertisement of Petition

(Rule 556)

(TITLE)

Notice is hereby given that a petition for the winding up of the abovenamed Company by the (or subject to the supervision of the) High Court of Judicature at ... .. (or District Court of ... ..) was on the ..... day of .. ..... 19 .., presented to the said Court by the said Company (or C. D. of ... .. a creditor or contributory of the said Company, as the case may be) and that the said petition is directed to be heard before the Court on the ..... day of..... 19 .., and any creditor or contributory of the said Company desirous of opposing an order for the winding-up of the said Company under the above Act should appear at the time of hearing by himself or his Advocate for that purpose; and a copy of the petition will be furnished to any creditor or contributory of the said Company requiring the same, by the undersigned on payment of the prescribed charge for the same.

A. B.

*Advocate for the Petitioners.*

Dated .... 19 ..

---

Note.—Any person who intends to appear on the hearing of the said petition must leave with or send by registered post to the petitioner or his Advocate, notice in writing of his intention so to do. The notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be served, or if posted, must be sent by post in sufficient time to reach the abovenamed not later than 2 clear days before the day appointed for the hearing of the petition.

### FORM No 17.

#### Affidavit of Service of Petition on Officer, or Servant of The Company.

(Rule 557)

(TITLE)

I,..... of..... make oath (or solemnly affirm) and say:—

1. (a) That I did on ..... day, the..... day of..... 19 .., serve the abovenamed Company with a petition, dated the..... day of..... 19 .., for winding-up the abovementioned Company (or, under the supervision of) the Court by delivering to and leaving with (name and description) an Officer (or servant or member) of the said Company a copy of the said petition and a copy of the order made under Rule 523, at (registered office or principal office as aforesaid).

or

1. (b) That I did on .. ..... day, the ..... day of ... .. 19 .. , having failed to find any officer, servant or member of the abovenamed Company at (here state registered office or principal or last known principal office) send by registered post a copy of the abovementioned petition and copy of the order under Rule 523 addressed to the Company at its registered (or principal or last known principal) office (as the case may be).

or

1. (c) That I did on ..... day, the ..... day of ... .. 19 .. , serve (name or names and description) with a copy of the abovementioned petition, by delivering the same personally to the said ..... at (place).

Sworn (or, solemnly affirmed), etc.

(a) In the case of service of petition on a company by leaving with an officer, servant or member, at the registered office or if no registered office, at the principal or last known principal office of the Company.

(b) In the case of no officer, servant or member of the Company being found at the registered office or principal or last known principal office of the Company by sending through registered post.

(c) In the case of directions having been given by the Court as to the other persons to be served.

### FORM No. 18.

#### Affidavit of Service of Petition on Liquidator.

(Rule 557)

(TITLE)

I, ... .., of ... .. make oath and say.

That I did, on ..... day, the .... day of .... 19 .. serve (name and description) the Liquidator of the abovenamed Company, with a copy of petition, dated the ..... day of .. 19 .., for winding-up the above Company by (or, under the supervision of) the Court and a copy of the Order made under rule 556 by delivering the same personally to the said ..... at (place).

Sworn (or solemnly affirmed), etc.

### FORM. No 19.

#### Notice of intention to appear on Liquidation.

(Rule 559)

(TITLE)

Take notice that A.B. of (a) ..... a creditor for Rs .. .. of [or contributory holding (b) ..... shares in] the above Company intends to appear on the hearing of the petition advertised to be heard on the ..... day of ..... 19 .., and to support (or oppose) such petition.

Signed (c) (names of person or firm).

Address.—

(Date)

To

*Advocate for Petitioner).*

(a) State full name or, if a firm, the name of the firm and address.

- (b) State number and class of shares held.  
 (c) To be signed by the person or his attorney.

## FORM No. 20.

List of persons attending at the hearing of a Petition.

( Rule 565 ).

(TITLE).

Name.	Address.	Name and address of Advocate of party who has given notice.	Creditors.	Contribu-tories.	Opposing.	Supporting.
			Amount of debt.	Amount of shares.		
1	2	3	4	5	6	7

Dated this

day of

19 .

*Petitioner,**(or Advocate for Petitioner).*

## FORM No. 21.

Order for Winding-up by the Court.

( Rule 566 ).

(TITLE).

Upon the petition of ( the abovenamed Company or A. B. of, etc. a creditor or contributory of the abovenamed Company) filed on the... .. day of....19 , and presented to the said Court, and upon hearing .. .. for... .. for the petitioner and... .. for... .. and upon reading the said petitioner ( an affidavit of the said petitioner filed, etc. verifying the said petition, an affidavit of S. M. filed, on the .. day of ...19 , as to advertisement of the said petition ) this Court doth order that the said Company be wound up by this Court under the provisions of the Indian Companies Act, 1913 (a) and that .. .. be appointed Provisional Liquidator of the affairs of the Company.

(a) Omit if no Provisional Liquidator is appointed at the time of making the Winding-up order.

## . FORM No. 22.

Order for Winding-up subject to Supervision.

( Rule 566 )

( TITLE ).

Upon the petition, etc. ( as in form No. 21 ), this Court doth order that the voluntary winding-up of the said... .. Limited, be continued, but subject to the supervision of this Court and any of the proceedings under the said voluntary winding-up may be adopted as the Court shall think fit; and it is ordered that the Liquidator appointed in voluntary winding-up of the said Company, do on the... .. day of... .. next, and thenceforth, every..... months file with the Registrar a report in writing

as to the position of, and the progress made with, the winding-up of the said Company and with the realization of the assets thereof, and as to any other matters connected with the winding-up as the Court may from time to time direct. And the creditors, contributors, and Liquidator of the said Company and all other persons interested, are to be at liberty to apply generally as there may be occasion.

## FORM No. 23.

## Notice of Winding-up Order to Registrar of Companies.

( Rule 567 )

( TITLE ).

To

The Registrar of companies,

Take notice that by an order of the High Court of Judicature for Rajasthan at Jodhpur Jaipur Bench ( or District Court of .. .. day of .. .. 19 .. Limited, was ordered to be wound up by the Court ( or under the supervision of the Court).

*Signed (Petitioner or his Advocate).*  
(Address).

Date.

## FORM No. 24.

## Notice to Official Receiver of Winding-up Order

(Rule 567)

( TITLE ).

To

The Official Receiver of the Court.

Take notice that an order was pronounced on the..... day of ..... 19 .. by the Hon'ble Mr. Justice..... ( or as the case may be) for the winding-up of the undermentioned Company under the Indian Companies Act, 1913.

Registrar.

Name of Company	Registered office of company.	Name and address of petitioner or his advocate.	Date of presentation of petition
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## FORM No. 25.

## Advertisement of Order to Wind-up.

(Rule 569)

(TITLE).

By an order of the High Court of Judicature for Rajasthan at Jodhpur  
Jaipur Bench ( or District Court of..... )

in the above matter, dated the . . . . . day of . . . . .  
 . . . . . 19 , and on the petition of the abovenamed  
 Company ( or A.B. of . . . . . ) it was ordered  
 that (etc. as in Form Nos 21 or 22).

C and D.

Advocates for the said petitioner.

Dated.....day of ..... 19 .

FORM No. 26.

**Order for Appointment of a Provisional Liquidator.**

(Rule 571)

(TITLE).

Upon the application of..... and  
 upon reading ..... the Court doth  
 hereby appoint . . . . . of... .. to be  
 the Provisional Liquidator of the abovenamed Company, AND the  
 Court doth hereby limit and restrict the powers of the said....

.....as such Liquidator to the  
 following acts (describe the acts which the Liquidator is authorised  
 to do and the property of which he is to take possession ). And the  
 Court doth hereby fix the remuneration of the said....  
 as such Liquidator at ( set out particulars of remuneration. (a) And  
 it is ordered that the said ..... do on or  
 before the.....day of... ..next furnish  
 security in the sum of Rs... ..to the satisfaction  
 of the Registrar of the said Court.

(a) If security ordered to be furnished add.

FORM No. 27.

**Advertisement as to appointment of Official Liquidator**

(Rule 573 )

( TITLE ).

Notice is hereby given that this Court has fixed the .....  
 ..... day of... .. 19 , at.....  
 O'Clock in the ... ..noon before.....for  
 the appointment of an Official Liquidator of the abovenamed  
 Company.

Dated .....19

Advocate for the Petitioner.

FORM No. 28.

**Form of nomination of Official Liquidator.**

(Rule 574).

( TITLE ).

We, the undersigned (creditors or contributories) of the abo-  
 venamed Company for the (debt or number of shares) placed opposite  
 our respective names hereby nominate.....of . . . . .  
 ....., to be the Official Liquidator of the said Company.  
 The said (name of nominee) is prepared, and by his signature hereto  
 under-takes, to furnish security in the sum of Rs.....  
 or such less sum as may be ordered by the Court.

Name.	Address	Creditor or Contributory	Amount of debt			Number of shares hold.
1	2	3	4			5
	.		Rs.	a.	p.	

Signed (Nominator).

Signed (Nominee).

Dated .. . 19 .. .

FORM No. 29.

Security Bond by Official Liquidator and Surety.  
( Rule 576 )

KNOW ALL MEN BY THESE PRESENTS that I (we) [ name (s) ] of the Official Liquidator (s), his or their description (s) and address (es) and I (we) [name (s) ] of the Surety or Sureties, his or their description (s) and address (es) are jointly and severally held and firmly bound unto (name of the Registrar of the High Court of Judicature for Rajasthan at Jodhpur (or name of the Judge) Judge of the District Court of .. . , his successor or successors in office and assigns in the sum of Rs ... .. of lawful money of the Republic of India to be paid to the said (name of the Registrar) (or name of the Judge) his successor or successors in office or assigns, as the case may be, for which payment well and truly to be made, we the said [name of the Official Liquidator (s) and Surety or Sureties] for ourselves, our heirs, executors, administrators and representatives and everyone of them do hereby bind and oblige ourselves for the whole firmly by these presents.

Signed by the said [name of the Official Liquidator (s) and Surety or Sureties].

Dated this..... day of..... one thousand nine hundred and .. .

WHEREAS by an order, dated the ..... day of ..... one thousand nine hundred and .. .

made by the said High Court (or District Court of..... in the matter of the Indian Companies Act, 1913, and in the matter of (name of the Company) the said [name of the Official Liquidator (s) ] was (were) appointed the Official Liquidator (s) of the said Company and he (they) was (were) thereby directed to give security for Rs ..... to be approved by the said Registrar (or the Judge of the said Court), AND WHEREAS the said [name of the Official Liquidator (s) ] has (have) proposed and the said Registrar has accepted the said (name of the Surety or Sureties) as Surety (Sureties) for the said [name of the Official Liquidator (s) ].

Now the condition of the above written Bond is such that if the said [name of the Official Liquidator (s) or his (their) executors



or administrators or some or one of them do and shall duly account for all and every the sum and sums of money or other property which the said (name of the Official Liquidator (s) has (have) received and shall receive or has (have) or shall become or be liable to pay or account for such Official Liquidator (s) as aforesaid, and do and shall pay or deliver the same as the Court or a Judge hath directed or shall hereafter direct, and do and shall from time to time and at all times hereafter so long as he (they) shall continue as such Official Liquidator (s) duly and faithfully in all respects discharge the duties and obligations which shall devolve upon him (them) as Official Liquidator (s) as aforesaid, and file and pass his (their) accounts before a Judge of the said Court at the times and in the manner required by the Rules of the said Court or as the Court or a Judge may direct and obey and carry out all other directions contained in the said order and all other orders which may hereafter be made, the above written Bond or obligation shall be void, otherwise the same shall remain in full force and virtue.

IN WITNESS whereof those presents have been executed the day and year above written.

SIGNED by the said ... ..  
(name of Official Liquidator) in the presence of

SIGNED by the said... ..  
(name of Surety)

in the presence of, .....

SIGNED by the said... ..  
(name of Surety)

in the presence of,....

FORM No 30.  
Affidavit by Sureties.  
( Rule 576 )  
( TITLE ).

We .. .. of ..... etc.,  
and..... of ..... etc., severally make oath  
(or solemnly affirm) and say as follows:—

1. I, the said..... for myself say that I am worth  
(a), the sum of Rs. .... of lawful money of the Republic of  
India over and above what is sufficient for the payment of all my  
just debts and liabilities.

2. And, I the said....., for myself say that I am  
worth the sum of Rs. .... of, etc. (as above).

(a) particulars of property to be specified if required by the registrar  
FORM No. 31.

Certificate that Official Liquidator has given Security.  
( Rule 577 )  
( TITLE ).

This is to Certify that..... of... .. who  
was on the ..... day of..... 19 ,  
appointed Official Liquidator of the abovenamed Company, has duly  
given security as ordered by the Court. Registrar.  
Dated this..... day of..... 19 .

## FORM No. 32.

## Order Appointing an Official Liquidator.

(Rule 580)

(TITLE)

Upon the application of .. ..and upon  
 reading . . . . .and upon hearing ...  
 ... the Court DOTH HEREBY APPOINT  
 ...of... (a) (and  
 ...of... with joint and several  
 powers) to be Official Liquidator (s) of the abovenamed company;  
 AND IT IS ORDERED, FIRST that the said...  
 ...do on or before the day of...  
 next furnish security in the sum of Rs. ... to the satisfaction  
 of the Registrar of this Court;

SECONDLY, that the said ... on the...  
 day of... and the ... day of...  
 ...19, and on the same days in each succeed-  
 ing year file his (or their) accounts of receipts and payments in the  
 office of the Registrar (or in the District Court at .....);

THIRDLY, that the said... be at liberty  
 to open, operate upon and maintain in his own name as such Offi-  
 cial Liquidator as aforesaid a banking account with the (b)....  
 ... Bank at its Head Office (or...  
 Branch);

FOURTHLY, that all moneys to be received by the said  
 ... be paid by him (or them) into the (b)  
 ... at its Head Office (or ...  
 Branch) (or into the District Court at... ) to the  
 credit of the account of the Official Liquidator (s) of the said Comp-  
 any within seven days after the receipt thereof and that out of the  
 said account all payments shall be made by cheque signed by the  
 said... as such Official Liquidator as afore-  
 said and countersigned by the Registrar (c).

(a) If more than one person be appointed and the Court so  
 directs.

(b) Insert name of a scheduled bank.

(c) As to dispensing with countersignature, see rule—

FORM No 33.

Advertisement of appointment of Official Liquidator.

(Rule 581.).

(TITLE).

Notice is hereby given that . . . Of...  
 by an Order, dated the ... day of ...19  
 has been appointed Official Liquidator of the abovementioned com-  
 pany (a).

(Advocate for the Petitioner).

(a) If more than one person is appointed, add "with joint and  
 several powers" or as the case may be.

FORM No. 34  
Liquidator's Statement of Account (a).  
( Rule 582 )  
( TITLE )

1. (Name of the Company).
2. (Name of proceeding, stating whether wound up by the Court, or under the supervision of the Court, or voluntary.)
3. (Date of commencement of winding up.)
4. (Date to which the statement is brought down.)
5. (Name and address of Liquidator.)

Realization				Disbursements.			
Date	Of whom received	Nature of assets realised	Amount	Date	To whom paid	Nature of disbursement	Amount
1	2	3	4	5	6	7	8
			Rs. a. p.				Rs. a. p.
		From Trading Account (b)				From Trading Account (b)	

Analysis of Balance.

			Rs.	a.	p.
Total realizations	...	...			
Total disbursements	...	...			
Balance	...	...			

(a) To be filed in duplicate.

(b) If Trading Account authorised total to be inserted and receipts and payments account to be attached.

Rs. a. p.

The balance is made up as follows.—

(1) Cash in the hands of Liquidator	...
(2) Total payments into bank, including balance at date of commencement of winding up (as per bank book).	...
Total withdrawal from bank	...
Balance at bank	...

(3) Amount in Company's Liquidation Account. ...

(4) Amount invested by Liquidator ...  
Less—Amount realised from same ...  
Balance ...

Total balance as shown above ...

Note.—Full details of stock purchased for investment and of realizations thereof should be given in a separate statement.

*Notes.*

In Column No. 6 and 7 the words "of whom received" and "Nature of assets realised" have been substituted by the words "To whom paid" and "Nature of disbursement" respectively vide amending Notification No. 16/S.R.O. dated 22-4-58, published in Rajasthan Rajpatra dated 5-6-58, part IV (c)

FORM No. 35.

Affidavit verifying Liquidator's Account.

( Rule 582 ).

( TITLE ).

I, ..... of ....., the  
( Official ) Liquidator of the abovenamed company, make oath  
and say:—

That the account hereunto annexed and marked "A" contains a full and true account of my receipts and payments in the winding-up of the abovenamed company from the ..... day of ..... 19 , to the ..... day of ..... 19 , inclusive, and that I have not nor has any other person by my order, or, for my use during such period, received or paid any moneys on account of the said Company, other than and except the items mentioned and specified in the said account.

Sworn ( or solemnly affirmed ), etc.

Dated this ..... day of ..... 19 .

FORM No. 36.

Direction to open Bank Account.

( Rule 586 ).

( TITLE ).

To

.....

Name of Bank

Dear Sir

An order, dated the ... day of ..... 19 ,  
having been made in the above matter by the High Court of Judicature for Rajasthan at Jodhpur  
Jaipur Bench for winding up the above named  
company by the Court, under the provisions of the said Act, and...  
... of ..... having by order dated the .....  
... day of ..... 19 . been appointed Official Liquidator  
of the said Company you are requested to open an account, to be  
entitled "The account of the Official Liquidator of the....."

Company, Ltd. (in liquidation)" in your book pursuant to the said Act.

All cheques drawn upon such account must be signed by the Official Liquidator, and countersigned by the Registrar (or by..... of....., a member of the Committee of Inspection) whose signatures are attached hereto.

Yours faithfully,  
Official Liquidator.

Specimen signature.

### FORM No. 37.

#### Request to invest Cash in Government Securities

(Rule 590).

(TITLE).

To

.....  
(Name of bank).

Dear Sir,

It appearing that the sum of Rs.... ... is standing to the credit of the account of the official Liquidator of the abovenamed company, you are hereby requested to invest the sum of Rs ... being part thereof, in the purchase of (here insert the description of the Government security intended to be purchased) in the name of ..... , the Official Liquidator of the said company and to retain such Government securities on behalf of the Official Liquidator. The said securities are not to be sold, transferred, or otherwise dealt with, except upon a direction for that purpose signed by the Official Liquidator of the said company and countersigned by the Registrar (or by the Judge of the District Court of .. .....).

Yours faithfully,  
Official Liquidator.

Dated the.....day of.....19 ..

### FORM No. 38.

#### Advertisement for Creditors

(Rule 613)

(TITLE)

The creditors of the abovenamed company are required on or before the....day of .....19 ,to send their names and addresses and the particulars of their debts or claims and the names and addresses of their advocates (if any) to..... of..... the Official Liquidator of the said company, and, if so required by notice in writing from the Official Liquidator, shall, either in person or by their advocates, prove their said debts or claims at such time as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved.

The .. .. day of ..... 19 ,  
 at.....o'clock in the..... noon at the said  
 .....is appointed for the investigation of debts and claims.

*Official Liquidator.*

Dated this .....day of.....19

FORM No. 39.

Affidavit of Creditor in Proof of Debt:

(Rule 615)

(TITLE).

I,.... .., of ... .. make  
 oath or (solemnly affirm) and say as follows:—

1. (If not made by the creditor personally, the deponent must state his authority for making the affidavit and his means of knowledge.)

2. The abovenamed company was on the (a).....day  
 of ..... 19 , and still is justly and truly indebted to me  
 (or the said.....) in the sum of Rs .....for  
 ..... (b).

3. (c) I have not nor has any person or persons by my order  
 to my knowledge or belief for my use, received the sum of Rs .....,  
 or any part thereof, or any security or satisfaction for the same or  
 any part thereof [except the said (security) herein before referred to]  
 Sworn or (solemnly affirmed), etc.

(a) Date of the winding-up order.

(b) Describe shortly the nature of the debt and exhibit any security held, and  
 in the case of a trade debt, exhibit vouchers.

(c) This paragraph to be modified as necessary when the deponent is a person  
 other than the creditor.

FORM No. 40.

Proof of Debt of Workmen:

(Rule 622)

(TITLE).

I, (a)..... of (b)..... make  
 oath or, do solemnly affirm and say.—

That the abovenamed company was on the.....day of  
 .... 19 , and still is justly and truly indebted to the  
 several persons whose names; addresses and descriptions appear in  
 the schedule endorsed hereon in the sum severally set against their  
 names in the sixth column of such schedule for wages due to them  
 respectively as workmen or others in the employ of the company in  
 respect of services rendered by them respectively to the company  
 during such periods as are set out against their respective names in  
 the fifth column of such schedule, for which said sums, or any part  
 thereof, I say that they have not, nor have any of them had or  
 received any manner of satisfaction or security whatsoever.

Sworn (or solemnly affirmed) etc.

The Schedule above referred to

No.	Full name of workman	Address	Description	Period over which wages due.	Amonnt.
1	2	3	4	5	6
					Rs. as. p.
<i>Signature of Deponent.</i>					

(a) Fill in full name, address and occupation of deponent.

(b) On behalf of the workmen and others employed by the abovenamed Company.

### FORM No. 41.

Notice to creditors to prove their debts before the official Liquidator

(Rule 623)

(TITLE)

*Address and Date*

Sir,

You are hereby required to prove the debt claimed by you against the above-named company by filing your affidavit, and giving notice thereof to me on or before the... ..day of.... ..next, and you are required to attend at my office in person or by your advocate on the.... ..day of 19.... ..at.... ..O'clock in the.... ..noon, being the time appointed for the investigation of the claim.

Yours faithfully,  
Official Liquidator.

Dated this... ..day of... ..19 ..

To

.....

(Name of creditor)

.....

(Address)

### FORM No. 42

Affidavit of official Liquidator as to debts and claims.

(Rule 626)

(TITLE)

I,.... .., of ....the Official Liquidator of the above-named company make oath (or solemnly affirm) and say as follows.

I. I have, by the paper hereto annexed and marked "A" set forth a list of all the debts and claims, the particulars of which have been sent to me by persons making claim upon or claiming to be creditors of the said company, pursuant to the advertisement issued in that behalf, dated the .....day of.....

19 , and the names and addresses of the persons by whom such claims are made.

2. I have investigated the said debts and claims and examined the same with the books and documents of the said Company in order to ascertain to the best of my ability which of such debts and claims are justly due from the said Company; and I have, in the first part of the said list, set forth such of the said debts and claims or part thereof, as in my opinion are justly due from the said Company, and proper to be allowed without further evidence; and I have in the sixth column of the said first part of the said list, set forth the amount proper to be allowed in respect of such debts, and claims and I believe that such amounts respectively are justly due and proper to be allowed; and I have, in the seventh column of the said first part of the said list, stated my reasons for such belief.

3. I have, in the second part of the said list, set forth such of the said debts and claims as in my opinion ought to be proved by the respective creditors.

Sworn (or solemnly affirmed).

This ..... day of ..... 19 ..

Commissioner for Oaths.

Annexure "A" to the affidavit of... .. sworn  
(or solemnly affirmed) before me, this ..... day of ..... 19 ..

Commissioner for Oaths,

List of debts and claims of which the particulars have  
been sent to the official liquidator.

### FIRST PART.

Debts and claims which ought to be allowed without further evidence.

Serial No.	Names of creditors	Addresses and descriptions	Particulars of debt or claim	Amount claimed	Amount proper to be allowed	Reasons for belief that amounts are proper to be allowed.
1	2	3	4	5	6	7
				Rs. a. p.	Rs. a. p.	

### SECOND PART.

Debts and claims which ought to be proved by the creditors.

S. No.	Number of creditors	Address and description	Particulars of debt or claim	Amount claimed.
1	2	3	4	5
				Rs. a. p.



## FORM No. 43.

Notice to creditors to prove as much of their debts as is not admitted before the Judge.

( Rule 626 ).

( TITLE )

You are hereby required to prove before the Judge the debt/ Rs..... out of the debt/claimed by you against the abovenamed company. You are accordingly required to attend in person or by your advocate at the High Court at Jodhpur on the..... Jaipur Bench day of 19 , at.....O'clock in the..... . noon, being the time appointed for hearing and adjudicating upon the claim.

[ Where the claim is admitted in part add here particulars identifying the part of the claim rejected].

*Official Liquidator.*

Dated this.....day of... .....19 .

To

.....

(Name of creditor).

.....

(Address).

## FORM No. 44.

Certificate as to settlement of list of debts and claims.

( Rule 628 ).

(TITLE)

The debts and claims which have been allowed are set forth in the first schedule hereto, and (with the interest and costs mentioned in the schedule) are due to the persons therein named.

In the first part of the said Schedule are set forth such of the said debts and claims as carry interest, and the interest thereon has been computed after the rate they respectively carry, down to date of the winding-up.

In the second part of the said schedule are set forth such of the debts and claims as do not carry interest.

The claims set forth in the second schedule hereto have been disallowed.

THE FIRST SCHEDULE ABOVE REFERRED TO

( FIRST PART )

Debts and claims which carry interest

S. No.	Name of creditor	Addresses and description	Particulars of debt	Total amount
1	2	3	4	5
			On bills of exchange, dated etc. Principal. Interest at.....per cent. per annum from..... to the date of commencement of the winding-up. Cost of proof ... ..	Rs a. p.

## SECOND PART

Debts and claims which do not carry interest.

S. No.	Name of creditors	Addresses and descriptions	Particulars of debt	Interest on principal	Total
1	2	3	4	5	6
			Goods sold .... Cost of proof ....	Rs. a. p.	Rs. a. p.

## THE SECOND SCHEDULE ABOVE REFERRED TO

S. No.	Names of creditors	Addresses and descriptions	Particulars of claims	Amount claimed
1	2	3	4	5

Judge (or District Judge).

Dated this..... day of.....19 ..

FORM No. 45.

Notice of Preliminary settlement of the List of Contributories.

(Rule 633)

( T I T L E )

(Address)

(Date)

TAKE notice that I have appointed the..... day of..... 19 .., at .. .. O' clock in the .. .. noon at... .. for the preliminary settlement of the list of contributories of the above-named company.

According to the books of the company you will be included in such list for the number of shares stated below. If you object to such inclusion you should attend in person or by your advocate at the time and place stated above when your objections will be heard and considered.

Official Liquidator.

No on list	Name	Address	Description	In what character included	Number of shares or extent of interest.
1	2	3	4	5	6

## FORM No. 46

## Affidavit of service of Notice

(Rule 633)

(TITLE).

I, ....., of ....., clerk to ....., the advocate of the official Liquidator (s) of the above-mentioned company, make oath (or solemnly affirm) and say as follows.—

1. The first six columns of the Schedule now produced and shown to me; and marked with the letter 'A', contain a true copy of the list of contributories of the said company made out and left at the, ..... by the said Official Liquidator (s), on the .. .. day of .. .. 19 .., and now on the file of proceedings of the said company, as I know from having, on the ..... day of ..... 19 .., examined and compared with the said Schedule with the said list; and I have in the seventh column of the said Schedule, marked A, set forth the names and addresses of the advocate (s) or pleader (s) who have entered appearances for any of the contributories named in the said list.

2. I did, on the ..... day of ..... 19 .., in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me and marked "B", upon each of said respective persons whose names, addresses, and descriptions appear in the second, third and fourth columns of the said Schedule, marked "A," except that in the tabular form at the foot of such copies respectively I inserted the number on list, name, address, description, in what character included and number of shares (or extent of interest) of the person on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said Schedule marked "A".

3. I served the said respective copies of the said notice by putting such copies respectively, duly addressed to such persons respectively or their advocates (s) or pleader (s), according to their respective names and addresses appearing in the said Schedule, and marked A, and with the proper postage stamps affixed thereto as prepaid letter, into the Post Office at ..... between the hours of ..... and ..... of the O'clock in the ..... of the said day of ..... .

Sworn (or solemnly affirmed) etc,

## FORM No. 47.

Preliminary list of Contributories made out by the official liquidator.  
(Rule 634)

( T I T L E )

1. The following is a list of members of the company liable to be placed on the list of contributories of the said company made out by me from the books and papers of the said company, together with their respective addresses and the number of shares (or extent of interest) to be attributed to each, so far as I have been able to ascertain the same.

2. In the first part of the list, the persons who are contributories in their own right are distinguished.

3. In the second part of the said list, the persons who are contributories as being representatives of, or being liable for the debts of others, are distinguished.

4. Before settling the said list I was satisfied by the affidavit of .. .., duly filed with the proceedings herein, that notice was duly sent to each of the persons mentioned in the said list, informing him that he was included in such list in the character and for the number of shares (or extent of interest) stated therein, and of the day appointed for finally settling the said list.

(FIRST PART)

Contributories in their own right.

S. No.	Name	Address	Description	Number of shares (or extent of interest)	Remarks
1	2	3	4	5	6

(SECOND PART)

Contributories as being representatives of or liable for the  
debts of others

S.N.	Name	Address	Description	In what character included	Number of shares (or extent of interest)	Remarks
1	2	3	4	5	6	7

Dated the..... day of..... 19 ..

Official Liquidator.

## FORM No. 48

Notice to contributories of settlement of list of Contributories by the Judge.  
(Rules 635)

(TITLE)

(Address)

(Date)

Notice is hereby given that .. .. the.....day  
of..... 19 .., at..... .. O'clock in the fore noon at the High

Court, Jodhpur (or at the District Court ..... ) has been fixed for the settlement of the list of contributories of the above named company made out and filed in Court by the Official Liquidator, and you are included in such list in the character and for the number of shares or extent of interest stated below, and if no sufficient cause is shown by you to the contrary at the time and place aforesaid, the list will be settled by the Judge, including you therein.

Unless the Judge shall otherwise direct no application for any variation of the list will be entertained after the day so appointed.

Official Liquidator

No. on list	Name	Address	Description	In what character included	Number of shares or extent of interest
1	2	3	4	5	6

### FORM No. 49

Endorsement by Judge on settlement of list of contributories

(Rule 636)

(TITLE)

List settled as filed (except that Nos ... .. are expunged from the list and Nos ..... stand over for determination and subsequent endorsement hereon).

JUDGE

Dated.....day of..... 19 .

### FORM No. 50

Petition for leave to make a call

(Rule 641)

(TITLE)

The humble petition of... .., Official Liquidator of the abovenamed company, sheweth as follows:—

1. The abovenamed company was by an order of this Court dated the ..... day of..... 19 , ordered to be wound up by this Court (or, under the supervision of this Court).

2. By an order of this Court, dated the.....day of ..... 19 , I was appointed Official Liquidator.

3. On the ... ..day of..... 19 , the list of contributories of the said company was settled by the Honourable Justice Shri . . . . . (or by ... .., District Judge of.....).

4. The amount of the debts proved and admitted against the said company and the estimated amount of the costs charged and expenses of the winding-up aggregate the sum of Rs.... .. or thereabouts.

5. Of the assets set forth in the statement of assets I have realised the sum of Rs.....of which I still have in hand the sum of Rs.... .., I estimate that the assets still remaining to be collected will realise approximately Rs..... There are no other

assets belonging to the said company except the amount due from contributories.

6. In the settled list of contributories of the said company appear the names of.... persons in respect of .... shares.

7. For the purpose of satisfying the debts and liabilities of the company and of paying the costs, charges and expenses of the winding-up I believe the sum of Rs.... will be required in addition to the amount I now have in hand and the amount still to be collected by realisation of the outstanding assets.

8. In order to provide the said sum of Rs ..... it is necessary to make a call upon the several persons who have been settled on the list of contributories and to provide for the contingency of some of such contributories partly or wholly failing to pay the amount of such call, I believe that for the purpose of realising the said amount required it is necessary that a call of Rs..... per share be made.

Your petitioner, therefore, humbly prays as follows:—

- (1) That leave be given to your petitioner to make a call of Rs... per share on all the contributories (a) of the said company, and to fix the date for the payment of such call;
- (2) That the costs of and incidental to this petition and the other to be made thereunder, and the costs of and incidental to making and enforcing such call be paid out of the call money to be collected (or, out of the assets coming to the hands of your petitioner);
- (3) Or that such other order may be made in the premises as may be fit and proper.

#### Verification.

I, ....., the Official Liquidator of the above-named company, make oath (or solemnly affirm) that the statements contained in the foregoing petition are true to the best of my knowledge, information and belief.

Sworn (or solemnly affirmed), etc.

FORM No. 51.

#### Advertisement of Intended Call.

( Rule 642 )

( TITLE )

Notice is hereby given that... ..the... ..  
 ... day of .. ...19 , at... ..O'clock  
 in the .. ...noon at the High Court for Rajasthan  
 at Jodhpur .. ... (or at the District Court, ... .. ),  
Jaipur Bench

has been appointed for the hearing of an application to sanction a call on (all) the contributories of the said company (or as the case may be) and that the said call shall be for Rs... .. per share. All persons interested are entitled to attend at such day, hour and place and to object to such call being sanctioned.

Official Liquidator.

Dated the .. ... day of... ... 19 .

## FORM No. 52.

Order giving leave to make a Call.

( Rule 643 )

( TITLE )

Upon the application of the Official Liquidator of the above named company, and upon reading the petition of the said Official Liquidator, filed on the.... ....day of.... ....19 , and in affidavit of (a) .. .. filed on the . ... day of... ...19 , and upon hearing... ..

It is ordered that leave be given to the Official Liquidator to make a call of Rs .. ....per share on (all) the contributories of the said company (b).

And it is ordered that each such contributory do on or before the .. ... day of... ... 19 , pay to the Official Liquidator of the said company (or, into the .. ... Bank at its head office or... .. branch to the account of the Official Liquidator or, in the case of a District Court into the District Court at.....) the amount which is due from each such contributory in respect of such call.

(a) Affidavit as to advertisements.

(b) Or as the case may be.

## FORM No. 53.

Notice to be served with Order mentioning a Call

( Rule 643 )

( TITLE )

( Address )

( Date )

The amount due from you (name) in respect of the call made pursuant to the . . . . order whereof a copy is attached hereto is the sum of Rs. .... which sum is to be paid by you on or before the . . . . day of... ... 19 , to me as the Official Liquidator of the said company at my office No... .. (or, into the .. ... bank at its head office or.... branch or into the District Court at.. ... ) to the account mentioned in the said order. You may pay the same in person, or through a banker or other agent, but this notice and copy of the order attached must be produced at the... .. bank (or to the Court) upon such payment, and the Secretary and Treasurer (or the Agent) of the... .. bank (or the accountant or other proper officer of the said Court) will, upon receiving the same, deliver to you a certificate of the payment signed by the said Secretary and Treasurer (or Agent) (or Judge). In order to prevent proceedings being taken against you for non-payment, you must immediately upon such payment, cause written

notice of the payment and of the date thereof to be given to me,  
as the Official Liquidator of the said company, at my office No.....

Official Liquidator,

To

( Name of contributory )

( Address )

FORM No. 54

Petition to enforce Call.

( Rule 641 )

( TITLE )

The humble petition of ....., the Official Liquidator  
of the abovenamed company, sheweth as follows:—

1. None of the contributories of the said company whose  
names are set forth in the schedule hereto annexed have paid  
the sums set opposite their names respectively in the said schedule,  
which sums are the amount now due from them respectively in  
respect of the call of Rs .. ... per share, in pursuance of  
the order of this Court in that behalf dated the... ..  
day of .. ... 19 ..

2. The sums set opposite the names of such contributories  
respectively in the said schedule are the amounts due and owing by  
such contributories respectively in respect of the said call.

WHEREFORE it is prayed that the persons whose names are set  
forth in the said schedule may be ordered to pay forthwith the  
amounts shown as being due from them respectively.

Dated .. ... day of ..... 19 ..

### THE SCHEDULE

No. of list	Name	Address	Description	In what Character included	Amount due
1	2	3	4	5	6

### AFFIDAVIT

I.... .. of.... .., make oath  
(or, solemnly affirm) and state as follows:—

I am the Official Liquidator of the abovenamed company, and  
I say that what is stated in the foregoing petition and in the  
schedule annexed thereto is true to my own knowledge.

Sworn (or, solemnly affirmed), etc.

Dated this .. ... day of... .. 19 ..

FORM No. 55

Order for payment of call due from a Contributory.

(Rule 644)

( T I T L E ).

Upon the application of... .. the Official  
Liquidator of the abovenamed company, and upon reading an affi-



davit of... .. filed the... .. day of  
 .... 19 (a) and an affidavit of the Official Liquidator,  
 filed the... .. day of... ..  
 (b) and upon hearing  
 It is ordered that .. .. of... ..  
 (or, ... of ... the legal personal representative  
 of ... late of ... deceased) one of  
 the contributories of the said company (or, if against several con-  
 tributories, the several persons named in the second column of the  
 schedule to this order being contributories of the said company), do,  
 on or before the ... day of ... 19,  
 or within fourteen days after service of this order, pay, to the Offi-  
 cial Liquidator of the said company at his office No .. ..  
 the sum of Rs .. .. (or into the... .. bank at  
 its head office or... .. branch to the account of  
 the Official Liquidator) or into the District Court at ... ) if  
 against a legal personal representative add, out of the assets of the  
 said... .. deceased, in his hands as such legal  
 personal representative as aforesaid, if the said... .. has in his  
 hands so much to be administered, or, if against several contribu-  
 tories, the several sums of money set opposite to their names respec-  
 tively in the sixth column of the said schedule hereto), such sum  
 (s) being the amount (s) due from the said... .. (or...  
 ... ) (or the said several persons respectively) in respect of  
 the call of Rs .. .. per share duly made, dated  
 the ... day of... .. 19

The Schedule referred to in the foregoing order—

No. of list	Name	Address	Description	In what character included	Amount due
1	2	3	4	5	6

Note.—The copy for service of the above order must bear the following notice,  
 “If you, the undermentioned .. .. neglect  
 to obey this order by the time mentioned therein, you will be liable  
 to process of execution, for the purpose of compelling you to obey  
 the same.”

(a) An affidavit of non-payment.

(b) Affidavit of service of the application for payment of the call.

### FORM No. 56

#### Affidavit of service of order for payment of Call

(Rule 644)

( T I T L E ).

I, ... .., of... .., make  
 oath (or, solemnly affirm) and say as follows:

1. I did, on the ... day of... .. 19  
 personally) serve... .. of ...  
 with the order made on the... .. day of... .. 19

which is hereto annexed and marked "A" (by delivering to and leaving with the said... ..at... ..  
in the .. ...a true copy of the said order,  
or as the case may be).

2. There were on the said copy when so served the following words.

"If you, the undermentioned... ..neglect to obey this order by the time mentioned therein, you will be liable to process of execution for the purpose of compelling you to obey the same."

Sworn (or, solemnly affirmed), etc.

### FORM No. 57

#### Advertisement as to declaration of a Dividend

(Rule 655)

(T I T L E)

(Address)

(Date)

Notice is hereby given that first (or, as the case may be) ... ..dividend of ... ..in the rupee has been declared, and that the same will be payable on the ... ..day of ... ..19 , at the office of the Official Liquidator No.... ..

Every person entitled to participate in this dividend will receive a notice to that effect and no payment will be made except upon production of such notice.

*Official Liquidator*

### FORM No 58.

#### Notice of Dividend

(Rule 655)

(TITLE)

(Address)

(Date)

To

(Name of Creditor)

1. Notice is hereby given that a first (or, as the case may be).... ..dividend of.... ..annas in the rupee has been declared.

2. The amount payable to you is Rs... .., and that the same will be payable at my office, as above, on... ..the... ..day of .. ...19 , or any subsequent day between the hours of... ..and.... ..

Upon applying for payment this notice must be produced together with any bills of exchange, promissory notes or other negotiable securities held by you. If you desire the dividend to be paid to some other person you may sign and lodge with the Liquidator an authority in the prescribed Form.....If you do not attend personally, you must fill up and sign the subjoined Forms of Receipt and Authority.

Official Liquidator.

Note.—The receipt and authority should, in the case of a firm, be signed in the firm's name.

## RECEIPT.

(TITLE).

(Address).

(Date)

Received from the Official Liquidator the sum of rupees  
 ...being the amount payable to me (us) in respect of  
 the... ..dividend of... ..in the rupee.  
 Rs. Payee's Signature.

## AUTHORITY FOR DELIVERY

(TITLE)

(Address)

(Date)

Sir,

PLEASE deliver to bearer [ or me (us) ] by post, at my (our)  
 risk,... ..the dividend of Rs.....payable to me (us)  
 Payee's Signature.

To

The Official Liquidator.

## FORM No. 59.

Authority to Liquidator to pay Dividends to another person.

(Rule 657)

(TITLE)

(Address)

(Date)

To

The Official Liquidator.

Sir,

I (we) hereby authorise you to pay the dividend referred to  
 in the enclosed notice .. ..(a) to ... .. of  
 ... .. (a specimen of whose signature is given below  
 whose receipt shall be sufficient discharge.

Signature (b).

Witness

Address

Occupation

Specimen signature of  
 person appointed as  
 above.

Witness

Occupation.

(a) Form No. 58 must be enclosed with this authority.

(b) If signed by a firm, sign the firm's name and add "by H. B., a partner in the said firm".

## FORM No 60

Schedule of Contributories to whom a Return is to be paid  
(Rule 658)  
(TITLE)

No in settled list	Name of contributory as in settled list	Address	No. of shares held as per settled list	Total called up value	Total paid up value	Arrears of call at the date of return	Previous returns of capital appropriated by Liquidator for arrears of calls	Amount of return payable at per share	Net return payable	Date and particulars of transfer of interest or other variation in list	REMARKS.
1	2	3	4	5	6	7	8	9	10	11.	12

## FORM No. 61.

Notice of Return to Contributories.

(Rule 658).

(TITLE).

Return of Rs.

per share.

(Address)

(Date)

NOTICE is hereby given that a first (or, as the case may be) return of Rs ..... per share has been declared, and that the same will be payable at my office, as above, on ..... the ..... day of ..... 19 .., or on any subsequent day between the hours of ..... m. and ..... m.

Upon applying for payment this notice must be produced together with the share certificate (s). If you do not attend personally you must forward the share certificate (s) and fill up and sign the subjoined Forms of Receipt and Authority.

(Signed).

Official Liquidator.

Note—The receipt must be signed by the contributory personally, or in the case of joint contributories by each.

Receipt  
(TITLE)  
(Address)  
(Date)

Dated this..... day of ..... 19 . No.....  
Received from the Official Liquidator the sum of rupees being the  
amount payable to me (us) in respect of the return of  
per share.

Rs.

Signature (s).

Authority for delivery.

(Address)

(Date)

Sir,

PLEASE deliver to bearer [ or me (us) ] by post, at my (our)  
risk, the return of Rs.....payable to me (us).

To

Signature (s).

The Official Liquidator.

FORM No. 62.

Notice of Meeting (General Form).

(Rule 660)

(TITLE)

(Address)

(Date)

TAKE notice that a meeting of creditors (or contributories in  
the above matter will be held at .....on the .....day of  
.....19 , at.....O'clock in the.....noon.

Agenda.

(a)

Official Liquidator.

(a) Here insert the purpose of the meeting.

FORM No. 63.

Affidavit of Posting of notices of Meeting.

(Rule 661)

(TITLE)

I,....., a (a).....make oath (or,  
solemnly affirm) and say as follows:--

1. I did on the.... day of... 19 , post  
to each creditor mentioned in the Company's list of debts (or to each  
contributory mentioned in the register of members of the Company)  
a notice of the time and place of the meeting in the form hereto  
annexed and marked "A".

2. The notices for creditors were addressed to the said cre-  
ditors respectively according to their names and addresses appearing  
in the list of debts of the Company.

3. The notices for contributories were addressed to the con-  
tributories respectively according to their names and addresses  
appearing in the register of members of the Company.

4. I despatched the said notices by posting the same prepaid  
at the post office at....before the hour of....O'clock

in the .. .. noon on the said day.

Sworn (or, solemnly affirmed), etc.

(a) Description.

FORM No. 64.

Nomination of Chairman of Meeting.

(Rule 664)

(TITLE)

I, .. .. , the Official Liquidator of  
 ....do hereby nominate ..  
 of .. to be Chairman of the meeting of  
 creditors (or contributories) in the above matter, appointed to be  
 held at .. on the... day of ..  
 19 , and I depute him to use at such meeting on my behalf, all  
 proxies held by me for use thereat.

Official Liquidator.

Dated this .. day of.....19 .

FORM No. 65.

Report of Result of Meeting of Creditors or Contributories

(Rule 674)

( TITLE )

I, .. .. the Official Liquidator  
 of the abovenamed Company or Chairman of a meeting of the  
 creditors ( or contributories ) of the abovenamed Company sum-  
 moned in accordance with directions given on the ..  
 .. day of .. 19 by  
 advertisement (or notice) dated the .. day of....  
 .. 19 , and held on the.... day of  
 .. 19 , at .. , do hereby  
 report the result of such meeting as follows:—

1. The said meeting was attended, either personally or by  
 proxy, by .. creditors whose proof of debts  
 against the said company were admitted for voting purposes, amount-  
 ing in the whole to the value of Rs ..  
 (or by .. contributories, holding in the  
 whole .. shares in the said company, and  
 entitled respectively by the regulations of the company to the num-  
 ber of votes hereinafter mentioned).

2. The proposal ( or resolution ) submitted to the said  
 meeting was (here state proposal or resolution as submitted to the  
 meeting).

3. The said meeting was unanimously of opinion that said  
 proposal (or resolution) should (not) be adopted; [or the result  
 of the voting upon such proposal ( or resolution ) was as follows]

(a):—

Resolutions put to the meeting	Voting on Resolution			
	For		Against	
	Num- ber	Amount	Num- ber	Amount
(State the substance or any resolutions put and total amounts of their proofs if creditors or shares if contributories).				

	No	Shares	Votes	No	Shares	Votes
Creditor						
Contributories						

Dated this... .. day of .. .. 19 ..  
*Chairman*

(a) Here set out the majorities by which the respective resolutions were carried or lost.

FORM No. 66

Form of Proxy.

(Rule 676)

(TITLE)

I, (a) ... .. of .. ..  
 creditor (or contributory) .. ..  
 of the abovenamed Company appoint (b) ... ..  
 as my ( our ) proxy to vote for me ( us ) at the meeting of creditor  
 ( or contributories ) of the said Company to be held of the... ..  
 ... .. day of... .. 19 and at any adjou-  
 nment thereof.

( Signed ) (c)

Dated this .. .. day of... .. 19

Signature of witness.

Address.

Description.

NOTE—No creditor shall appoint a proxy who is not a creditor of the Company whose debt or claim has been admitted or allowed and no contributory shall appoint a proxy who is not a contributory, but a creditor or contributory may appoint the Official Liquidator to act as his proxy.

(a) If a firm write "we" instead of "I", and set out the full name of the firm.

(b) Here insert either " " of or "the Official

Liquidator in the above matter’.

(c) If a firm, sign the firm’s trading title and add “by partner in the said firm”.

FORM No. 67

Summons under section 195 of the Indian Companies Act, 1913.  
( Rule 685 )

(TITLE)

To

You are hereby required to attend this Court

on the... ..day of... 19

at ... O'clock in the... ..noon to give

evidence before . ... ..in the

above matter and thereafter on such other dates as you may be

required and to bring with you and produce at the time and

place aforesaid ... .. hereof if you fail

having no lawful impediment to be when made known to the said ...

... ..and allowed

by him the Court may be warrant cause you to be apprehended and

brought up for examination.

Witness at

aforsaid, the day

of .. .. one thousand nine hundred and.... ...

Registrar (or District Judge).

The serving officer will tender a reasonable sum to the witness above-named for conduct money and expenses.

NOTE—This summons is issued on the application of

FORM No. 68.

Order Directing a public Examination.

(Rule 689)

(TITLE)

Upon reading the reports of the Official Liquidator in the above matter, dated respectively the.....day of.....19 ; the .....day of .....19 , and

It is ordered that the several persons whose names and addresses are set forth in the schedule hereto attend before the Court on a day and at a place to be named for the purpose, and publicly examined as to the promotion or formation of the Company and as to the conduct of the business of the Company, and as to their conduct and dealings as directors or officers of the Company.

The Schedule referred to .

Name	Address	Connection with the Company
------	---------	-----------------------------



## FORM No. 69.

## Order Appointing a Time for Public Examination.

(Rule 690)

(TITLE)

Upon the application of the Official Liquidator in the above matter, it is ordered that the public examination of... .. who, by the order of the Court, dated the... ..day of... .. 19 , was directed to attend before the Court to be publicly examined, be held on the ... .. day of... .. 19 , at... .. O'clock in the ... .. noon ... .. And it is ordered that the abovenamed .. .. do attend at time above-mentioned.

Dated this.....day of.....19 .

Registrar.

NOTE—Notice is hereby given that if you, the abovenamed..... fail, without reasonable excuse, to attend at the time aforesaid you will be liable to be committed to prison without further notice.

## FORM No. 70.

## Notice to attend Public Examination.

(Rule 698)

(TITLE)

WHEREAS by an order of this Court made on the day of ..... 19 , it was ordered that you, the undermentioned ... .. should attend before the Court on a day to be named for the purpose, and be publicly examined as to the promotion or formation of the abovenamed Company, and as to the conduct of the business of the said Company, and as to your conduct and dealing as (a)

And whereas the ..... day of ..... 19 , at.....O'clock in the . . . . noon, before . . . . has been appointed as the time and place for holding the said examination.

Notice is hereby given that you are required to attend at the said time and place, and at any adjournments of the examination which may be ordered, and to bring with you and produce all books, papers and writings and other documents in your custody or power in any wise relating to the abovenamed company.

And take notice that if you fail, without reasonable excuse, to attend at such time and place, and at the adjournments of the said public examination which may be ordered, you will be liable to be committed to prison without further notice.

Dated this.....day of ..... 19 .

Official Liquidator.

(a) Insert director or Officer (as the case may be).

## FORM. No 71.

## Warrant against person who fails to attend Examination

(Rule 691)

(TITLE)

To  
THE ..... ..and to the Superintendent of the  
Central Jail,..... .., (or, as the case may be).

Whereas it hath been made to appear to the satisfaction of the Court that by order of the Court, dated the ..... day of ..... 19 .., and directed to (a) ..... he was directed to attend personally at ..... and be examined before (b) ..... which order was afterwards duly served upon the said (a) ..... [or, that there is probable reason to suspect and believe that the said ..... has absconded and gone abroad (or quitted his place of residence or) is about to go abroad (or quit his place of residence) with a view of avoiding examination under the Indian Companies Act].

And whereas the said (a) ..... did without good cause fail to attend on the said ..... day of ..... 19 .., for the purpose of being examined, according to the requirements of the said order of this Court made on the ..... day of ..... 19 .., directing him so to attend.

These are therefore to require you, the said ..... to take the said (a) ..... and to deliver him to the Superintendent of the abovenamed prison, and you the said Superintendent to receive the said (a) ..... and him safely to keep in the said prison until such time as this Court may order.

Witness the Hon' ble ..... Company Judge  
at .. this... day of ..... 19 ..,

(a) Name of person required to attend.

(b) Name or title of officer before whom examination is directed to be held.

FORM No. 72.

Report to the Court where Person Examined Refuses to Answer to  
Satisfaction of Registrar or Officer

(Rule 694).

(TITLE).

AT the (public) examination of a ..... held before me this ..... day of ..... 19 .., the following question was allowed by me to be put to the said ( ..... ) ..

Q (b)

The (a) ..... refused to answer the said question.

The (c) ..... answered the said question as follows:—

A. (d)

I thereupon named the ..... day of ..... 19 .., at ..... as the time and place for such (refusal to) answer to be reported to the Hon'ble Justice Shri ..... (or, to the Judge of this Court).

Dated this... day of... 19 ..

*Registrar.*

- (a) E, G., A.B., a person ordered to attend for examination.  
 (b) Here state question.  
 (c) Witness.  
 (d) Here insert answers (if any).

FORM No. 73.

Disclaimer.

( Rule 698 )

( TITLE )

PURSUANT to an order of the... ..  
 Court..... . dated the.... ..day of  
 .....19 ,... ..  
 I,....., the Official Liquidator of the  
 abovenamed Company, hereby disclaim all interest in the lease,  
 dated the .....day of... ..19 ,  
 whereby the premises (a).... ..were demised to  
 .....at the rent of Rs... ..per  
 annum for a term of... .. Notice of this  
 disclaimer has been given to... ..  
 Dated this... ..day of.... ..19 .

*Official Liquidator.*

- (a) Insert description of the property disclaimed.

FORM No. 74.

Notice of Disclaimer of Lease.

( Rule 698 )

( TITLE ).

TAKE notice that, pursuant to an order of this Court dated  
 the... ..day of... ..19  
 I,... ..the Official Liquidator of the abovenamed  
 Company, by writing under my hand bearing date the... ..  
 ...day of... ..19 , disclaimed all interest in  
 the lease dated the.... ..day of . ...19 , whereby  
 the premises (a).... ..were demised to... ..  
 ...at a rent of Rs.... ..per  
 ...for a term of.... ..

The above mentioned disclaimer has been filed with the  
 proceedings in this Court.

Dated this... ..day of... ..19 .

*Official Liquidator.*

To

( Address )

- (a) Insert description of the property disclaimed.

FORM No. 75.

Particulars With Respect to the Proceedings in and Position of  
 Liquidation.

( Rule 711 ).

( TITLE ).

1. (Name of Company).

2. (Nature of proceeding whether wound up by the Court, or under the supervision of the Court, or voluntary).
3. (Date of commencement of winding-up).
4. (Date to which the statement is brought down).
5. (Name and address of Liquidator).

(1) The amount of the estimated assets and liabilities at the date of the commencement of the winding-up.	Assets (after deducting amounts charged to secured creditors and debenture holders).
	Liabilities- Secured creditors. Debenture holders. Unsecured creditors. Paid up in cash. Issued as paid up otherwise than for cash.
(2) The total amount of the capital paid up at the date of the commencement of the winding-up.	
(3) The general description and estimated value of outstanding assets ( if any ).	
(4) The causes which delay the termination of the winding-up	
(5) The period within which the winding-up may probably be completed.	

NOTE:—Full details of stock purchased for investment and of realisations thereof should be given in an annexure to the statement.

### FORM No. 76.

Affidavit verifying liquidator's Statement as to the position of the Liquidation.

( Rule 711 )

( TITLE ).

I... .., of ... .., the (official) Liquidator of the abovenamed Company, make oath and say:—

The particulars in the annexed statement marked "A", with its annexure (if any) with respect to the proceedings and proceeding of the liquidation are true to my own knowledge.

Dated this... .. day of.... .... 19 ..

Sworn (or solemnly affirmed), etc.

Commissioner for Oaths.

### FORM No. 77.

Return of Final winding-up meeting.

( Pursuant to section 208-E )

( Rule 714 )

The Indian Companies Act, 1913.

Members Voluntary Winding-up

Name of Company

Presented by

Members' Voluntary Winding-up

To,

The Registrar of Joint stock Companies.

I (or we) ..... of... .. being the  
 Liquidator (s) of ... .. Limited, have to inform you  
 that a General Meeting of the Company was duly (a) held on/  
 summoned for the ... .. day of... .. 19 ,  
 pursuant to section 208 E of the Indian Companies Act, 1913, for  
 the purpose of having an account (of which a copy is attached  
 hereto) (b) laid before it showing how the winding-up of the  
 Company has been conducted, and the property of the Company has  
 been disposed of, and that (c) the same was done accordingly no  
 quorum was present at the meeting.

Signature (d).

Dated the .. .. day of... .. 19 .

(a) Strike out that which does not apply.

(b) The Copy Account accompanying this return must be  
authenticated by the signature (s) of the Liquidator (s) .

(c) Strike out that which does not apply.

(d) To be signed by each Liquidator if more than one.

FORM No. 78.

Return of the final winding-up meetings of Members and Creditors.

( Pursuant to Section 209-H )

( Rule 714 )

The Indian Companies Act, 1913.

Creditors' Voluntary Winding-up.

Name of Company

Presented by

Creditors' Voluntary Winding-up

To,

The Registrar of Joint Stock Companies.

I (or we) ..... of ..... being  
 the Liquidator (s) of ..... Limited have to inform you

(1) that a General Meeting of this Company was duly (a) held  
 on/summoned for the ..... day of ..... 19 ,  
 pursuant to section 209-H of the Indian Companies Act, 1913, for the  
 purpose of having an Account (of which a copy is attached hereto)  
 (b) laid before it showing how the winding-up of the Company has  
 been conducted and the Property of the Company has been disposed  
 of, and that (a) the same was done accordingly/no quorum was  
 present at the Meeting.

(2) that a Meeting of the Creditors of this Company was duly  
 (a) held on/summoned for the ..... day of ..... 19 ,  
 pursuant to section 209-H of the Indian Companies Act, 1913, for  
 the purpose of having the said Account laid before it showing how  
 the winding-up of the Company has been conducted and the Property

of the Company has been disposed of, and that (a) the same was done accordingly/no quorum was present at the Meeting.

Signature (c).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

- (a) Strike out that which does not apply.
- (b) The Copy Account accompanying this Return must be authenticated by the signature (s) of the Liquidator (s).
- (c) To be signed by each Liquidator if more than one.

FORM No. 79.

Declaration of Solvency.

( Pursuant to section 207 )

( Rule 715 )

The Indian Companies Act, 1913.

Members' Voluntary Winding-up

Name of Company

Presented by

Declaration of Solvency

We

of  
of  
of  
of  
of

being all the/the majority of the Directors of

Company, Limited, do swear (or solemnly affirm) and declare that we have made a full enquiry into the affairs of this Company, and that having so done, we have formed the opinion that this Company will be able to pay its debts in full within a period, not exceeding three years from the commencement of the winding-up.

Signature of Directors.

Sworn/solemnly affirmed by the abovenamed.....

.....

at.....  
this \_\_\_\_\_ day of \_\_\_\_\_ 19 ,  
before me.

Commissioner for Oaths.

FORM No. 80.

Notice of appointment of Liquidators.

(Pursuant to section 214)

( Rule 716 ).

The Indian Companies Act, 1913.

Members Voluntary Winding-up.

Name of Company.....

Presented by. ....

Members' Voluntary Winding-up

To

The Registrar of Joint Stock Companies, Jaipur .....

I (or we).....of.....hereby give you

notice that I (or we) have been appointed Liquidator (s) of.....

.....Limited by (a).....Resolution

of the company, dated the... .. day of... ..

.....19... ..

Signature (b).

Dated the .. .. day of .. 19 ..

(a) State how appointed, whether by Resolution of the Company, or how otherwise, and adapt, if necessary.

(b) To be signed by each Liquidator, if more than one,

FORM No. 81.

Notice of appointment of Liquidators.

(Pursuant to section 214)

( Rule 716 ).

The Indian Companies Act, 1913

Creditors' Voluntary Winding-up

Name of Company .. ..

Presented by... ..

Creditors Voluntary Winding-up

To,

The Registrar of Joint Stock Companies, Jaipur. ..

I (or we) ... .. of... ..

hereby give notice that I (or we) have been appointed Liquidator

(s) of... .. Limited, by (a).... ..

Signature (b).

Dated the... .. day of .. 19 ..

(a) State how appointed, whether by the creditors of the Company or how otherwise.

(b) To be signed by each Liquidator, if more than one.

FORM No. 82

Certificate of passing Final Account

( Rule 719 ).

( TITLE ).

I hereby certify that .. .. the Official

Liquidator of the abovenamed Company, has passed his final acc-

ount as such Official Liquidator, and that a balance of Rs ... ..

is show by such account to be in his hands.

Dated this... .. day of.... .. 19 ..

Judge.

FORM No. 83

Order for Dissolution of the Company

( Rule 720 ).

( TITLE ).

Upon the application of the Official Liquidator of the above-

named Company, and upon reading the certificate, dated the.... ..

.... day of... .. 19.... .. (a) and it

appearing that the balance of Rs.... .. found in the hands

of the Official Liquidator has been paid to ..... it is ordered  
 that the said..... Limited, be dissolved as from this  
 ... .. day of .. 19....., and that the  
 ... .. recognizances, dated the.... day of . 19 ,  
 entered into by the said Official Liquidator, together with .....  
 and .. his sureties be vacated.

Dated this.... day of.... 19 .  
*Judge.*

(a) Certificate of passing final account.

### FORM No. 84.

Form of Order Transferring Winding-up proceedings from High Court  
 to District Court.

( Rule 724 )

( TITLE )

It is hereby ordered that all the winding-up proceedings in  
 the above matter, together with all documents, and papers thereto  
 relating, and all moneys and securities standing therein to the credit  
 of the Official Liquidator, be and they are hereby transferred from  
 the said High Court to the District Court at .. ..  
 and the said District Court shall hereafter have cognizance of all  
 such proceedings and take charge of all such moneys securities.

Dated this .. day of... 19 .  
*Registrar.*

### FORM No. 85.

Form of order transferring Winding-up proceeding from one District  
 Court to another.

(Rule 724)

(TITLE)

It is hereby ordered that all the winding-up proceedings in  
 the above matter, together with all documents and papers relating  
 thereto, and all moneys and securities standing therein to the  
 credit of the account of the Official Liquidator, be and they are  
 hereby transferred from the District Court at... ..  
 ... .. to the District Court at, .. ..  
 .. and the said last mentioned District Court shall hereafter  
 have cognizance of all such proceedings and take charge of all such  
 moneys and securities.

Dated this.... day of.... 19 .  
*Registrar.*



## . FORM No. 86.

Form of order transferring proceedings from a district court to the  
High Court.

(Rule 724)

(TITLE)

It is hereby ordered that all the proceedings in the above matter, together with all documents and papers relating thereto (a), and all moneys and securities standing therein to the credit of the account of the Official Liquidator, be and they are hereby transferred from the District Court of .. ...

to the High Court of Judicature at Jodhpur  
Jaipur Bench

Dated the . . . day of . . . .. 19 .  
Registrar.

---

(a) This clause to be omitted if the proceedings are not winding-up proceedings.

## APPENDIX A—(Contd)

## PART IV

## Forms under Chapter XXIX of the Rajasthan High Court Rules, 1952

S.No.	DESCRIPTION	Reference to Rule
1	Application for probate ....	750
2	Affidavit of an attesting witness ....	750
3	Application for letters of Administration ....	751
4	Application for letters of Administration with the will annexed ....	752
5	Certificate that no other grant has been made ....	753
6	Registrar's certificate as to payment of Court-fee ....	754
7	Notice of citation for personal service ...	766
8	Notice of citation by advertisement ....	766
9	Affidavit in proof of publication of a citation by advertisement ...	767
10	Administration Bond ...	771
11	Inventory by Executor or Administrator under section 317 of the Indian Succession Act ....	776
12	Account by Executors or Administrators, ...	776
13	Caveat ....	777
14	Notice of the filing of the caveat ....	777

## FORM No. 1

Application for probate.

(Rule 750)

## IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

at Jodhpur

Jaipur Bench

Testamentary and Intestate Jurisdiction.

Petition for probate of the will of\* Petitioner.

SHEWETH,

- 1 That the abovenamed... (a) died  
 at .. ...on or about the... ..day  
 of... ..
2. That the said deceased at the time of his death left (b)  
 property within the Town of... ..and in the  
 State of Rajasthan.
3. That the writing hereunto annexed and marked... ..  
 ...is his last will and testament.
4. That the same was duly executed at (c)... ..  
 the .. .. day of ... ..

\*Insert name in full and profession. If deceased was a bachelor or spinster that should be stated.

(a) Insert name of the deceased.

(b) Or had a fixed place of abode it.

(c) State where.

5. That the petitioner is the executor (d) named in (e) the said will.

6. That the petitioner has truly set forth in the schedule No. 1 hereto all the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to his hands.

7. That the petitioner has also truly set forth in schedule No. II (f) all the items that by law he is allowed to deduct.

8. That the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another and not beneficially or with power to confer a beneficial interest and also exclusive of the items mentioned in the said Schedule No. II, but inclusive of all rents, interest and dividends and increased value since the date of his death are under the value of Rupees ...

9. That the said deceased left him surviving as his only next-of-kin according to (g) ... .. law.

10. That no application has been made to any District Court (h) or to any other High Court for probate of any will of the said deceased or letters of administration with or without the will annexed to his property and credits.

The petitioner prays that probate may be granted to him having effect throughout (i) the State of Rajasthan.

I, ... .. the petitioner ... .. abovenamed do solemnly declare that what is stated in paragraphs ... is true to my own knowledge and that what is stated in the remaining paragraphs is true to the best of my information and belief and I believe the same to be true.

*Signature of the Petitioner.*

### SCHEDULE I.

#### Valuation of the movable and immovable property of deceased.

Cash in the house and at the banks, household goods, Rs. a. p.  
wearing apparel, books, plate, jewels, etc.

(State estimated value according to best of executor's or administrator's belief).

Property in Government Securities transferrable at the Public Debt Office.

(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.)

(d) Or one of the executors.

(e) Or according to the tenor thereof.

(f) Full particulars of debts due by the estate, including names of creditors, amounts of claims and the dates when they became due must be given in the Schedule.

(g) Here insert what law.

(h) Or if made state to what Court, by what person and what proceedings have been had.

(i) Or throughout the territory of India.

Immovable property consisting of....  
 (State description giving in the case, of houses, the assessed value, if any; and the number of year's assessment the marked value is estimated at, and, in the case of land, the area, the market value and all rents that have accrued.)

Leasehold property ..  
 (If the deceased held any leases for years determinable, state the number of years' purchase, the profit rents estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.)

Property in public companies  
 (State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application.) Policy of Insurance upon life, money out on mortgages, bills, notes and other securities for money.

(State the amount of the whole; also the interest separately calculating it to the time of making the application.)

Book Debts. ....  
 (Other than bad). ....

Stock in trade. ....  
 (State the estimated value, if any.) ....

Other property not comprised under the foregoing heads ....

(State the estimated value, if any.) ....

Total .....

Deduct amount shown in Annexure B not subject to duty ....

Net Total .....

## SCHEDULE II.

### Debts etc.

	Rs.	a.	p.
Amount of debts due and owing from the deceased, payable by law out of the estate (a)	....	....	....
Amount of funeral expenses	....	....	....
Amount of mortgage incumbrances	....	....	....
Property held in trust not beneficially or with general power to confer a beneficial interest	....	....	....
Other property not subject to duty.	....	....	....
Total	....	....	....

Petitioner.

(a) Full particulars of debts with names of creditors and date of debts must be given.

### FORM No. 2.

Affidavit of an attesting Witness.

( Rule 750 )

In the High Court of Judicature for Rajasthan.

Testamentary and Intestate Jurisdiction.

Petition for probate of the last will and testament of... ..

... .. deceased.

..... Petitioner.

I, .. .. make oath\*  
(solemnly affirm) and say as follows.—

1. That I knew and was well acquainted with the ...  
deceased ... .. abovenamed.

2. That on the .. .. day of.... .... I was present  
together with... .. at the house of... .. and  
we did then and there see the said deceased set and subscribe his  
name at foot of the testamentary paper in the.... ....  
language and character hereunto annexed and marked with the letter  
... .. and declare and publish the same as and for his  
last will and testament.

3. That thereupon I this deponent and the said... ..  
did at the request of the said deceased and in his presence and in  
the presence of each other all being present at the same time set  
and subscribe our respective names and signatures at foot of the said  
testamentary paper as witnesses thereto.

4. That the name and signature . . . . . subscribed  
at foot of the testamentary paper as of the party executing the same  
is in the proper handwriting of the said deceased and the name, sig-  
nature and additions "... .." also subscribed and  
written at foot of the said testamentary paper as of the parties attes-  
ting execution of the same are in the proper respective handwritings  
of the said... .. and of me this deponent respectively.

5. That at the time the said deceased so subscribed his name  
and signature to the said will as aforesaid... .. was of  
sound and disposing mind, memory and understanding and to the  
best of my belief made and published the same of his free will and  
pleasure.

*Signature.*

\*Muhammadans or Hindus solemnly, affirm, Christians, Parsis, Jews and other swear.

Note.—If testator makes a mark or signs in a language other than the will is written in, the affidavit should state whether the will was read over and explained to him, and if there are any scorings, alterations or insertions, it should be stated whether they existed at the time of the execution of the will.

## FORM No. 3

Application for Letters of Administration.  
(Rule 751)In the High Court of Judicature  
for Rajasthan.

Testamentary and Intestate Jurisdiction. Petition for letters  
of administration of the property and credits of... ..  
... .. Deceased\* ... ..

... .. Petitioner.  
*Sheweth,*

That the abovenamed†... .. died  
at ... .. on or about the  
... .. day of ... ..

2. That the said deceased at the time of his death left (a)  
property within the Town of ... .. and within  
the State of Rajasthan.

3. That the said deceased died intestate and that due and  
diligent search has been made for a will but none has been found.

4. That the said deceased left him surviving as his only next-  
of-kin according to ... .. (b) law  
residing at ... ..

5. That the petitioner as .. .. of the  
deceased claims to be entitled to a.... .. share  
of his estate.

6. The petitioner has truly set forth in Schedule No. I here  
to all the property and credits which the deceased died possessed of  
or entitled to at the time of his death which have or are likely to  
come to the petitioner's hands.

7. That the petitioner has also truly set forth in Schedule  
No. II (a) all the items that by law he is allowed to deduct.

8. That the said assets exclusive of what the deceased may  
have been possessed of or entitled to as a trustee for another and  
not beneficially or with power to confer a beneficial interest and  
also exclusive of the items mentioned in the said Schedule No. II  
but inclusive of all rents, interest and dividends and increased value  
since the date of his death are under the value of Rs.... ..

9. That no application has been made to any (\*) District  
Court or to any High Court for Probate of any will of the said

\*Insert name in full and profession. If deceased was a bachelor or spinster  
that should be stated.

†Insert name of the deceased.

(a) Or had a fixed place of abode at.

(b) Here state what Law.

††State the relationship to the deceased.

claims and the dates when they became due, must be given in the Schedule.

(c) Full particulars of debts due by the estate, including names of creditors,  
amounts of.

(\*) Or if made state to what Court by what person and what proceedings  
have been had.

deceased or letters of administration with or without the will annexed to his property and credits.

The petitioner, therefore, prays that letters of administration may be granted to him having effect throughout (d) the State of Rajasthan.

I, .. .. the petitioner abovenamed do solemnly declare that what is stated in paragraphs... .. is true to my own knowledge and that what is stated in the remaining paragraphs is true to the best of my information and belief and I believe the same to be true.

Signature of the Petitioner.

### SCHEDULE I

Valuation of the movable and immovable property of deceased .

	Rs.	a.	p.
Cash in the house and at the banks, household goods, wearing apparel, books, plate, jewels, etc. ....			
(State estimated value according to best of executor's or administrator's belief.) ....			
Property in Government Securities transferrable at the Public Debt office ..			
(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application) ...			
Immovable property consisting of ..			
(State description giving, in the case of houses, the assessed value, if any; and the number of years' assessment the market value is estimated at, and, in the case of land, the area, the market value and all rents that have accrued.) ....			
Leasehold property ....			
(If the deceased held any leases for years determinable, state the number of years' purchase, the profit rents estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application ) ...			
Property in public companies ...			
(State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application). Policy of Insurance upon, life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money. ....			
(State the amount of the whole; also the interest separately calculating it to the time of making the application). ....			

(d) Or throughout India.

Book debts ...	...	...	...	...
(Other than bad)	....	....	...	...
Stock in trade	....	....	...	...
State the estimated value, if any.)	....	....	...	...
Other property not comprised under the foregoing heads	....	....	...	...
(State the estimated value, if any) ..	..	..	..	..

	Total	..
Deduct amount shown in Annexure B not subject to duty .. .. .		..
	Net Total	..

Petitioner

## SCHEDULE II.

Debts, etc

	Rs.	a.	p.
Amount of debts due and owing from the deceased, payable by law out of the estate (a).			
Amount of funeral expenses .. .. .	..	..	..
Amount of mortgage incumbrances .. .. .	..	..	..
Property held in trust not beneficially or with general power to confer a beneficial interest ..	..	..	..
Other property not subject to duty .. .. .	..	..	..
Total .. .. .	..	..	..

Petitioner.

(a) Full particulars of debts with names of creditors and dates of debts must be given.

## FORM No. 4

Application for Letters of Administration with the will Annexed  
(Rule 752)IN THE HIGH COURT OF JUDICATURE  
FOR RAJASTHAN

Testamentary and Intestate Jurisdiction.

Petition for letters of administration with the will annexed of the property and credits of\* . . . . . deceased.  
.. .. . Petitioner.

Sheweth,

1. That the abovenamed (a)... .. died at on or about the... .. day of .. .. .

2. That the said deceased at the time of... .. death left (b) property within the Town of... .. and in the State of Rajasthan.

\*Insert name in full and profession. if deceased was a bachelor or spinster that should be stated.

(a) Insert name of the deceased.

(b) Or had a fixed place of abode at.



3. That the writing hereto annexed and marked .. ... is his last will and testament.

4. That the said will was duly executed at (c)..... on the... ..day of .. ...

5. That by the said will the deceased appointed\*\*..... sole executor thereof, but he has since died, to wit on the day of .... without having proved the said will, and that the... ..petitioner is the... .. of the deceased.

6. That the petitioner has truly set forth in Schedule No. I hereto all the property and credits which the deceased died possessed of or entitled to at the time of .. ..death which have or are likely to come to his hands.

7. That the petitioner has also truly set forth in Schedule No. II (d) all the items that by law he is allowed to deduct.

8. That the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another or others and not beneficially or with power to confer a beneficial interest and also exclusive of the items mentioned in the said Schedule No. II but inclusive of all rents, interests and dividends and increased value since the date of .....death are under the value of Rs ....

9. That the said deceased left ..... surviving as his only next-of-kin according to @ ... ..residing at. ....

10. That no † application has been made to any District Court or to any other High Court for probate of any will of the said deceased or letters of administration with or without the will annexed to his property and credits.

The petitioner prays that letters of administration with the said will annexed may be granted to him as the .. .. of the said deceased having effect throughout the Stats § of Rajasthan.

I,..... the petitioner abovenamed do declare that what is stated in paragraphs .. ..is true to my own knowledge and that what is stated in the remaining paragraphs is true to the best of my information and belief and I believe the same to be true.

Signature of the Petitioner

(c) State where.

\*\*Or no executor, as the case may be.

amounts of claims and the dates when they became due must be given in the Schedule.

(d) Full particulars of debts due by the estate, including names of creditors, @state what law.

† Or state if prior application made.

§ Or through out India.

## FORM No. 5

Certificate that no other grant has been made.  
(Rule 753)

I, ..... Registrar of the High Court of Judicature for Rajasthan at Jodhpur in its Testamentary and Intestate Jurisdiction, do hereby certify that I have caused search to be made amongst the records of my office from the .. day of .. upto this day and find that no intimation has been received by this Court from any other High Court or any District Court of any grant of probate or of letters of administration of the property and credits of the deceased having effect throughout the territory of the Indian Republic.

Dated the..... day of .....19

Registrar.

## FORM No. 6

Registrar's certificate as to payment of Court fee.  
(Rule 754)

I, ... Registrar of the High Court of Judicature for Rajasthan at Jodhpur certify that (the court-fee payable on the grant of the Probate/Letters of Administration of the property and credits of ... deceased has been paid)/  
(no court-fee is payable on the grant of the Probate/Letters of Administration in question.)

Dated . . . day of . . . 19 .

Registrar.

## FORM No. 7

Notice of citation for personal service.  
(Rule 766)

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
at Jodhpur.  
Jaipur Bench.

Testamentary and Intestate Jurisdiction.

Petition for... ..deceased.

Petitioner.

To

Take notice that the above petition for the grant of...  
...shall be heard on the... day of...  
19 at... You may appear on the date of hearing to show cause why .. should not be granted.

And also take notice, that in default of your so appearing and showing cause, the Court will proceed to grant...  
your absence notwithstanding.

Dated this... day of... 19 .

Signature....  
Designation....

## FORM No. 8.

## Notice of Citation by Advertisement.

(Rule 766)

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

at Jodhpur.

Jaipur Bench.

## Testamentary and Intestate Jurisdiction.

Petition for.... .. deceased.

Petitioner.... ..

All persons claiming to have any interest in the estate of the abovenamed deceased are hereby cited to come and show cause if they think fit before the grant of ... ..

Dated the ... .. day of... .. 19 ..

*Signature.**Désignation.*

SEAL

## FORM No. 9.

## Affidavit in proof of publication of a citation by advertisement.

(Rule 767)

I, ... .. make oath/swear/solemnly affirm and say that a citation in the name of ... .. son of ... .. resident of ... .. in re-petition for Probate/Letters of Administration of the last will and testament of... .. deceased was duly published by advertisement in.... .. an English/Hindi daily news-paper on.... ..

Dated.... .. *Signature.*

## FORM No. 10

## Administration Bond

(Rule 771)

The following form of Administration Bond may be used under section 291 of Act No. XXXIX of 1925 with necessary changes in case of probate.

We, A. B., of .. .., C. D., of... .. and E. F., of... .., are bound unto G. H. Esqr, the Registrar of the High Court of Judicature for Rajasthan at Jodhpur and to his successors in office in the sum of rupees (double the amount of the assests likely to come to the administator's hands) to be paid to the said G. H or the Judge of the said Court for the time being, for which payment we bind ourselves and each of us and any two of us and the heirs, executors, and administrators of us and each of us and of any two of us jointly, severally and respectively.

Dated the... .. day of... .. 19 ..

The engagement of this Bond is such that if the abovenamed A. B., the person appointed by the abovenamed G. H. Esqr., under

the Indian Succession Act No. XXXIX of 1925, to be the administrator of the estate of I. K. late .. .. . deceased, who died on the.... ....day of ... ....19 .. do make a true inventory of all the estate of the said deceased which has or shall come to his possession, power or knowledge, and do exhibit the same into the said court on or before the.... .... day of .. ..,19 .., and the same estate and all the other estate of the said deceased at the time of his death which at any time after shall come into the possession or power of the said A. B., do administer according to law (that is to say) do pay the debts which he owed at his decease, and further do render a true account of his said administration whenever by law required so to do, and all the residue of the said estate, do pay unto such person or persons as shall be entitled thereto under the said Act, and if it shall hereafter appear that any last will was made by the said deceased and the executor or executors or other persons therein named do exhibit the same in the said Court, if the said A. B., being thereunto required, do render and deliver the said letters of administration (approbation of such will being first had and made in the said Court) then this obligation to be void or else to remain in full force.

A. B.

C. D.

E. F.

Signed by the said A. B., C. D. and E. F in the presence of.

## FORM No. 11

Inventory to be furnished by Executors or Administrators.  
(Rule 776.)

To be filed within six months from grant of Probate or Letters of Administration

Property in possession of executor or administrator						Credits			Debts			Property bequeathed by will of deceased		REMARKS.
Immovable Property				Movable property		Amount due to estate	From whom due	Nature of security (if any)	Amount due by estate	To whom due by account	On what account	Amount or value	To whom bequeathed	
Description	Government revenue payable (if-any)	Recorded rental (if any)	Estimated market value	Description	Estimated value									

## FORM No. 12.

Account to be furnished by Executors or Administrators.  
(Rule 776)

To be filed within the year from grant of Probate or Letters of Administration.

ASSETS										Application or disposal of assets				Remarks.
Property in possession of executor under the inventory Form No. 11		Income from such property	Credits realised out of those entered in the inventory	Other assets or credits recovered or realised	Total assets which have come into the hands of executor or administrator up to date of filing the accounts		Debts paid out of those entered in the inventory	Legacies paid out of those entered in the inventory	Other payments made	Total payment				
1	2	3	4	5	6	7	8	9	10					

## FORM No. 13

Caveat

(Rule 777)

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN.

At JodhpurJaipur Bench

Testamentary and Intestate Jurisdiction

In the matter of the Petition... .. of... ..late  
of ... ..inhabitant, deceased.  
.....Petitioner.  
and  
.....Caveator

To

The Registrar/Deputy Registrar,  
High Court of Judicature for Rajasthan,  
At Jodhpur  
Jaipur Bench

Sir,

Let nothing be done in the matter of the estate of the above-named . . . . .late of . . . . .deceased, who died at ... ..on or about the .. . day of ... ..without due notice to the abovenamed caveator.

Dated this .. .day of .. .:19 .  
Yours truly.

## FORM No. 14

Notice of the filing of the caveat

(Rule 777)

*In the High Court of Judicature for Rajasthan*At JodhpurJaipur Bench

Testamentary and Intestate Jurisdiction.

Re:

deceased.  
Petitioner.

To

Attorneys for the Petitioner.

Take notice that on the .. . day of .. .  
a Caveat was filed in my office in the above Petition by... ..  
Dated the... ..day of... ..:19 .

Yours truly,  
Registrar.

Deputy Registrar

## APPENDIX A (Contd.)

## PART V.

Forms under Chapter XXXIV of the Rajasthan High Court Rules, 1952.

Serial number	Description	Reference to Rule
1	Notice of date of hearing .. ..	816

## NOTICE OF DATE OF HEARING.

( Rule 816 )

Case Reference No..... ..of 19 ..

In the Matter of the Chartered Accountants Act (Central Act XXXVIII of 1949) and in the matter of Member of the Institute of Chartered Accountants of India.

The Council of the Institute of Chartered  
Accountants of India—Referring Authority.

.....Respondent.  
To

- (1) .....Member of the Institute, the Respondent above named.
- (2) Secretary to the Council of the Institute of Chartered Accountants of India.
- (3) Secretary to the Government of India (Ministry of Finance), New Delhi.

Whereas the Council of the Institute of Chartered Accountants of India has forwarded to this Court its finding, dated the .....195 and the report of the Disciplinary Committee dated the ...195 in the above case.

Now take notice that the High Court will proceed to hear the said case and pass orders thereon on the..... day of .....195 when you may appear either in person or by an Advocate and make your submission to the Court.

High Court of Judicature for Rajasthan dated.....  
....195 .

*Deputy Registrar.*

APPENDIX A (*Continued*)—

## PART VI

Forms under Chapter XXXV of the Rajasthan High Court Rules, 1952.

Serial Number	Description	Reference to Rule
1.	Tender ....	820
2.	Application for repayment of deposit	829
3.	Repayment Order ....	834



FORM No. 1  
Tender  
( Rule 820 )

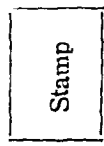
**ORIGINAL TENDER.**

*In the High Court of Judicature for  
Rajasthan at Jodhpur*  
*Jaipur Bench*

Instructions } Fill up accurately columns  
to applicant } 1 to 4

1. Name of party on .....  
whose behalf the .....  
money is tendered .....
2. Names of parties .....  
and number of .....  
the suit .....
3. Nature of payment .....
4. Amount tendered .....
5. Office report .....

Signature of .....  
actual payer .....  
Cashier.



Dated .....  
Receipt acknowledged in Register No. ....  
Dated .....  
Signature of Receiving Officer

N. B.—To be filed with the record.

Signature of Accountant.

**DUPLICATE TENDER**

*In the High Court of Judicature for  
Rajasthan at Jodhpur*  
*Jaipur Bench*

Instructions } Fill up accurately columns  
to applicant } 1 to 4

1. Name of party on .....  
whose behalf the .....  
money is tendered .....
2. Names of parties .....  
and number of .....  
the suit .....
3. Nature of payment .....
4. Amount tendered .....

Signature of .....  
actual payer .....  
Cashier.

To the Treasury—Officer,  
Receiving  
Receive and credit the above sum if ten-  
dered to you within three days.  
Dated .....  
Signature of Deputy Registrar

Received the sum of Rs. ....  
Signature of Treasury—Officer,  
Receiving

N. B.—To be given to the payer.

**TRIPPLICATE TENDER**

*In the High Court of Judicature for  
Rajasthan at Jodhpur*  
*Jaipur Bench*

Instructions } Fill up accurately columns  
to applicant } 1 to 4.

1. Name of party on .....  
whose behalf the .....  
money is tendered .....
2. Names of parties .....  
and number of .....  
the suit .....
3. Nature of payment .....
4. Amount tendered .....

Signature of .....  
actual payer .....  
Cashier.

To the Treasury—Officer  
Receiving  
Receive and credit the sum of tendered to  
you within three days.  
Dated .....  
Signature of Deputy Registrar

Received the sum of Rs. ....  
Signature Treasury—Officer  
Receiving

N. B.—To be retained in the Treasury.

FORM No. 2.  
Application for Repayment of Deposit in the Court of  
( Rule 829 )

(Instruction to applicant; fill up correctly columns 1 to 4, leaving the other columns blank ).

Name of applicant	Names of parties and number of suit.	Nature of repayment applied for	Amount	Deposit		Is applicant entitled to the amount claimed	Is amount still in deposit and available for present payment to the applicant ?	Serial number and date of repayment order.
				Serial No.	Date			
1	2	3	4	5	6	7	8	9

*Signature of Applicant.* *Signature of Accountant.* *Signature of Receiving Officer.*  
I hereby declare that the aforesaid money be paid to  
Shri \_\_\_\_\_ Advocate, on my behalf. *Signature of Applicant.*

*Signature of Applicant.* Date  
Witness to signature of Applicant. for Rs.  
RECEIVED repayment Order No. \_\_\_\_\_  
Treasury  
Repayment advised by \_\_\_\_\_ Advice List. Date  
Sub-Treasury

*Signature of Receiving Officer.*

FORM No. 3.  
Repayment Order.  
( Rule 824 )

Serial No. and date of payment order.	Chalan (Tender) No. and chalan date (or Pass Book No. and date) of the original deposit from which the payment is sought.	Amount in credit in deposit	At whose credit in deposit	Serial No. and date of payment order.	Chalan (Tender) No. and chalan date (or Pass Book No. and date) of the original deposit from which the payment is sought.	Amount in credit in deposit	At whose credit in deposit
1	2	3	4	1	2	3	4

To the Officer in charge of the Treasury at  
Please pay as above to or order Rupees  
(in words)

Please pay as above to or order Rupees  
(in words)

Signature of Court's Accountant.

Signature of Court's Accountant.

Signature of Deputy Registrar.

Signature of Deputy Registrar.

## APPENDIX B.

## Allowances to Witnesses and Jurors.

1. *Judicial Dept. Notification No. F. 21 (250) Jud./42, dated 6th January, 1951. Published in Gazette No. 137 (Vol. 2) dated 24-2-1951.*—The following Rules have been made by the Government of the State under section 544 of the Code of Criminal Procedure, 1898, to regulate the payment of reasonable expenses to complainants and witnesses attending the Court for the purpose of any criminal proceeding before it.

## (1) Cases in which Government is to pay the expenses.

The Criminal Courts are authorised to pay at the rates specified below, the expenses of complainants or witnesses:—

- (i) in cases in which the prosecution is instituted or carried on by or under the orders or with the sanction of the Government, or of any Judge, Magistrate, or any other public officer or in which it shall appear to the presiding officer to be directly in furtherance of the interests of the public service;
- (ii) in all cases entered in column 5 of Schedule II appended to the Code of Criminal Procedure as not bailable;
- (iii) in all cases which are cognizable by the Police, and
- (iv) in all cases in which they are compelled by the Magistrate, of his own motion, to attend under section 540 of the Code of Criminal Procedure.

## (2) Expenses of witnesses in Summons Cases.

No payment shall be made by Government to witnesses summoned at the instance of the complainant under section 244 of the Code of Criminal Procedure, unless the prosecution appears to the Magistrate to be in furtherance of the interests of public justice; but under this section the Magistrate may require the complainant to pay their expenses.

## (3) Expenses of Witnesses in Criminal Cases.

The expenses of witnesses shall like ordinary contingent expenditure be met by the Court out of its permanent advance, the expenditure on this account being recouped when necessary from the appropriate grant.

## (4) Rates of Expenses.

- (i) The following are the authorised rates of diet allowances:—
  - (a) for the ordinary labouring class, Re. 1/- per diem,
  - (b) for those of a comparatively better status in life, Rs. 1/8/- per diem,
  - (c) for witnesses of superior rank, a diet allowance according to circumstances up to a limit of Rs. 3/- per diem.

- (ii) Diet-money shall be paid for the days of actual detention as well as for the time occupied in the journey to and from the Court. The number of days which should be allowed for the journey to and from will be determined by the officer ordering payment in each case.
- (iii) Travelling expenses shall be given when the journey could not with reasonable care and expedition, have been performed on foot, or in the case of persons whose age, position and habits of life render it impossible for them to walk. In such cases an addition to diet allowance, travelling allowance shall be given at the following rates:
- (a) when the journey is by road and performed in a hired conveyance or his own conveyance, the actual expenses incurred up to a maximum limit of four annas a mile or in the case of witnesses of superior ranks, up to six annas a mile. In towns where licensed hackney carriages ply for hire, the actual cost of hiring a vehicle suited to the rank of a witness may be allowed if, in the opinion of the Court, the use of such vehicle was necessary;
  - (b) where the journey is wholly or partly by rail--
    - (i) generally, railway fare by the lowest class,
    - (ii) for witnesses of higher rank, Inter Class or Second Class railway fare according to circumstances; but the High Court may, in its discretion allow First Class railway fare when the persons concerned from their social position, would ordinarily travel by that class.

**NOTE 1.—EXPENSES OF MINOR'S ATTENDANT:—**

When a minor of tender age is required to attend Court as a witness and such witness cannot safely travel alone; the attendant who accompanies the minor may also be paid expenses at the ordinary rates prescribed for witnesses.

**NOTE 2.—DISCRETION OF COURTS:**

These rules intentionally allow the Criminal Courts a discretion as to the payment of witnesses. The circumstances of cases differ, and there are many criminal proceedings in which the prosecution is not called for on public grounds. It is not in every case that the State has undertaken and is bound to provide the cost of the prosecution. In many instances moreover, witnesses live at such a short distance from the Court that their being summoned to give evidence cannot be considered to entitle them to remuneration. At the same time doubtful cases should be interpreted liberally, & in no case should it happen that complainants and witnesses who have been put to trouble and inconvenience in the

prosecution of offenders, should be denied their legitimate expenses.

(5) Payment should be made personally by the Court and without delay.

It is the duty of the Magistrate to ascertain in each case how far the witness has to travel to and from the Court and how many days it takes the witness to travel to the Court to give evidence and to return to his home. Every endeavour should be made to avoid delay in payment of the expenses of witnesses. As soon as the evidence of the prosecution witnesses in cases launched by the State has been recorded, the Magistrate should have the memorandum of costs of witnesses made out and forwarded to the Nazir from whom he should receive and personally disburse the amount to the witnesses before leaving the Court.

(h) Expenses of Government Servants.

(1) An officer of the Government who is summoned to give evidence of facts which have come to his knowledge or of matters with which he has had to deal in his public capacity in a criminal case (including a case before a Court Martial) is entitled to draw travelling allowance from Government. Accordingly, the Courts should not grant to Government Officers except in the two cases mentioned below fees or expenses which may have been deposited in such cases for their travelling and halting or subsistence allowances. The amount should be credited to Government under the head "XXI Administration of Justice Miscellaneous Fees and Fines."

In the case of employees of the Central Government or a State Railway or any other Commercial Department of Government, however, sums deposited for diet money will be credited in the Treasury to the credit of the Government concerned i.e. Central Railway, or any other Commercial Department or Government, as the case may be.

*Exception (i)* When a Government servant is summoned to give evidence at a Court situate not more than 5 miles from his headquarters or to give evidence of facts which came to his knowledge in his private capacity and is, therefore, not entitled to any travelling allowance under the ordinary rules from Government, the Court may, if it considers necessary, pay him the actual travelling expenses incurred.

*Exception (ii)* When the salary of the Government servant summoned does not exceed Rs. 35 per mensem, such official may receive his expenses from the Court.

(2) The practice of requiring the parties to pay the subsistence allowance of a Government servant at the rate of pay of official concerned is illegal. A Government servant is entitled only to his subsistence allowance at the rate prescribed above for other witnesses.

## (3) Court Certificate:—

In all cases in which an officer of Government is summoned to give evidence, the Court should give him a certificate in the following form (A) specifying the dates on which the officer was required to attend and the amount, if any, paid by the Court. The certificate will be attested by the officer concerned to any travelling allowance bill which he may submit under the rules quoted above. A copy of the certificate should invariably be endorsed to the Head of the Department concerned for his information

A.

*Form of certificate to be given by the Court to an Officer of Government summoned to give evidence at a Court.*

In the Court of the . . . . . in the .. .. District.

1. Certified that .. .. \*was summoned to give evidence in this Court in his public/private capacity in the case of .... and was required to attend for a period of... .. days, that is, from the .. .. to the .. ..

\*\*2. He was paid the following amounts in accordance with the rules of the Court.

3. The amount of .. .. as his diet-money has been/will be deposited in the local Treasury/Sub-Treasury

... .. on (date) . . . . .

—Here enter the name and official designation of the officer.

\*\*To be cut out when nothing is paid

\*\*\*Paragraph 2 is only required in the following cases, namely:—

Note:—1. In cases in which Government servants have to give evidence at a Court situate not more than 5 miles from their head-quarters or in their private capacity, actual travelling expenses incurred by them may, when the Court considers it necessary, be paid to them.

Note:—2. A Government servant whose salary does not exceed Rs. 10 per mensem may receive his expenses from the Court.

(7) Expenses of persons subject to Military Travelling Allowance rules.

Individuals subject to the military travelling allowance rules when they are detailed or summoned either as witnesses or accused to attend a Civil Court in a criminal case, are entitled to payment of travelling expenses by the Court only when they are not entitled to free conveyance at the expenses of the Army under paragraph 201 II of Passage Regulations, India, which is reproduced as under:—

Paragraph 201-II. Witnesses Attending Civil Courts.

An individual detailed or summoned either as a witness or as an accused to attend a Civil Court in a criminal case involving the interests of the State, provided that in the case of a witness the facts as to which he is to give evidence have come to his knowledge

in the discharge of his public duties, will be entitled to free conveyance. When such conveyance is provided, a witness may not accept any payment on account of travelling or subsistence allowance from the Court. Any fees which may be deposited in the Court for the travelling and subsistence allowance of the witness must be credited to Government. If the Court in which he gives evidence is situated within 5 miles (or 10 miles in the case of a mounted officer) of his headquarters and no travelling allowance, is, therefore, admissible for the journey, he may, if he be not in receipt of permanent travelling allowance, accept such payment of actual travelling expenses as the Court may make.

Note:—1. An individual summoned to give evidence while on leave is entitled to conveyance as if he were on duty from and to the place at which he is summoned.

Note:—2. When a witness attends a Civil Court in his private capacity, he is only entitled to such travelling and subsistence allowance as are admissible in accordance with the rules of the Court. If the Court pays him any sum as subsistence allowance or compensation, apart from travelling expenses, he must credit that sum to Government before drawing full pay for the day or days of absence. An individual ordinarily eligible to travel on warrant will be entitled to receive advance of travelling expenses for both the forward and return journeys which will be refunded as soon as such charges are paid to him by the Court.

#### (8) Expenses of a Civil Surgeon:

(i) The attendance of the Civil Surgeon at the Criminal Courts of the station for the purpose of giving evidence, is one of his ordinary official duties and he is not entitled to claim nor are the Courts authorised to grant, a fee for this duty. When a Civil Surgeon is required to proceed more than five miles beyond the limits of his station, he is entitled to travelling allowance under the ordinary rules relating to such allowances.

(ii) Assistant Surgeons and Hospital Assistants should, when summoned to attend a Court in their official capacity, be paid the actual expenses incurred by them on account of carriage hire, when their attendance in Court entails such expenditure.

#### (9) Experts.

In regard to witness summoned as "Expert", a fee, having reasonable relation to the loss of income, inconvenience and trouble occasioned should be fixed. But it must be remembered that a witness ought not to be classed as "Expert" merely on the strength of cross examination. The nature of the evidence is to be determined by the facts to which a witness testifies in Examination-in-chief. If they are facts relating to circumstances observed by a person in his or her ordinary capacity the evidence given is ordinary evidence if they are conclusions drawn by professional witnesses from hypothetical facts not within their special knowledge, or if the



conclusions are based on a professional examination, the evidence given is expert evidence. The line taken in cross-examination to test the accuracy of conclusions drawn from facts observed has nothing to do with the nature of the evidence given.

2. *Judicial Department Notification No F. 2 (4) Judicial /50, dated the 21 st August, 1951, published in Gazette No. 85 (Vol. 3), dated 8-9-1951.*—The following rules have been framed by the State Government to regulate the payment to Jurors, and assessors attending the Court in a obedience to summons in original criminal trial coming before it.

(1) *Travelling expences*—Every person who attends in obedience to a summons issued under Chapter XXIII of the Code of Criminal Procedure, in order to serve as a Juror or Assessor at a trial:—

(a) before the High Court;

(b) before any Court of Sessions;

shall be entitled to his bonafide travelling expenses, if his place of residence be not less than five miles distant from the Court which he attends. Such travelling expenses shall not exceed the railway fare to and from the Court when the person summoned can perform the journey by rail.

Note.—Government servants are entitled to travelling allowance as on tour in accordance with the Rajasthan Travelling Allowance Rules for the time being in force:

2. *Subsistence allowance.*— Every person summoned as a Juror or A-ssessor shall be entitled to subsistence allowance for each day's necessary absence from his residence and attendance at Court, such subsistence allowance not to exceed rupees five per diem.

Note.—No subsistence allowance shall be paid to a Government servant acting as a Juror or Assessor.

(3) *Trial Court to fix expenses, certificate of expenses actually incurred.*—In every case in which a non-official person is summoned as a Juror or Assessor, the Court at which his attendance is required shall if he is entitled to travelling allowance under rule I, determine the class by rail (with due regard to such person's position in life) to make use of; or in the event of his being unable to travel by rail, the bonafide travelling expenses which he has incurred coming to Court and must incur on his journey home wards, and shall also determine the rate per diem at which subsistence allowance is to be granted under rule 2.

### CERTIFICATE TO BE FURNISHED BY A JUROR OR ASSESSOR BEFORE PAYMENT OF EXPENSES.

I hereby certify that the travelling expenses bonafide incurred by me in attending this Court as a Juror/Assessor in obedience to a summons (my place of residence being not less than \_\_\_\_\_ miles distant) are as noted below, viz:—

	Coming	Returning	Total.
Railway fare .....	.....	.....	.....
Carriage hire .....	.....	.....	.....
	<hr/>	<hr/>	<hr/>
Total	<hr/>	<hr/>	<hr/>

Date the } Juror  
Assessor

4. *Expenses of Assessors attending before Sessions Courts.*—

The same procedure shall be allowed for the payment of the expenses of Assessors in trial before Courts of Sessions, as has been laid down for the payment of road and diet money to witnesses.

APPENDIX C.

EXTRACTS FROM THE SUPREME COURT RULES, 1950.

PART I.

*General.*

ORDER I.

INTERPRETATION, ETC.

2. (1) In these Rules, unless the context other wise requires—

X X X

“Advocate” means a person entitled to appear and plead before the Supreme Court;

X X X

“Court” and “this Court” mean the Supreme Court of India.

X X X

“Record” in Part II of these Rules means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgment) proper to be laid before the Court at the hearing of the appeal;

X X X

PART II.

APPELLATE JURISDICTION.

ORDER XII.

CIVIL APPEALS.

*Appeals on certificate by High Court.*

1. Subject to any special direction which the Court may give in any particular case, the provisions of Order XLV of the Code, so far as may be applicable and of any rules made for the purpose by the High Court concerned, shall apply in relation to appeals preferred under Articles 132 (1), 133 (1) and 135 of the Constitution.

2. An appellant who has obtained a certificate from the High Court may, at any time prior to the making of an order admitting the appeal, withdraw the appeal on such terms as to costs and otherwise as the High Court may direct.

3. Where an appellant, having obtained a certificate from the High Court fails to furnish the security or make the deposit required, that Court may, on its own motion or on application in that

behalf made by the respondent, cancel the certificate and may give such directions as to the costs of the appeal and the security entered into by the appellant as it shall think fit or make such further or other order as the justice of the case requires.

4. Where an appellant whose appeal has been admitted desires, prior to the despatch of the Record to this Court, to withdraw his appeal, the High Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn and the appeal shall there-upon be deemed, as from the date of such certificate, to stand dismissed without an express order of this Court and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court may think fit to direct.

5. Where an appellant whose appeal has been admitted fails to show due diligence in taking all necessary steps in connection with the preparation of the Record, the High Court may, either on its own motion, or on the application of the respondent, call upon the appellant to show cause why a certificate should not be issued that the appeal has not been effectually prosecuted by the appellant, and if the High Court sees fit to issue such a certificate, the appeal shall be deemed, as from the date of such certificate, to stand dismissed for nonprosecution without an express order of this Court, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court thinks fit to direct.

6. Where there are two or more appeals arising out of the same matter, and the High Court is of the opinion that it would be for the convenience of this Court and all parties concerned that the appeals should be consolidated, the High Court may direct the appeals to be consolidated and make such order for security of costs as the justice of the case requires.

#### ORDER XIII.

#### APPEALS BY SPECIAL LEAVE.

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6. Where the Court grants special leave to appeal, it may in its order specify the amount of the security for costs (if any) to be lodged by the petitioner, and the time within which such security is to be lodged, and, unless the circumstances of a particular case render such a course unnecessary, provide for the expeditious transmission of the printed Record by the Registrar of the Court concerned or by other authority, to the Registrar of this Court and for such further matters as the justice of the case may require. Unless the Court specially directs otherwise, any security for costs to be furnished by the petitioner shall be lodged in the Court or tribunal from whose judgment or decision special leave to appeal has been granted, and that Court or tribunal shall deal with such security in accordance with the directions contained in the order of the Court when determining the appeal.

7. After the grant of special leave to appeal by the Court, the Registrar shall transmit a certified copy of the order to the Court or tribunal appealed from.

8. On receipt of the said order, the Court or tribunal appealed from shall, in the absence of any special directions in the order, act in accordance with the provisions contained in Order XLV of the Code, so far as applicable.

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#### ORDER XIV.

#### SPECIAL LEAVE TO APPEAL AS A PAUPER.

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3. Where a petitioner obtains special leave of the Court to appeal as a pauper, he shall not be required to pay court-fees or to lodge security for the costs of the respondent.

#### ORDER XV.

#### PREPARATION OF RECORD ETC.

1. As soon as the appeal has been admitted whether by an order of the Court appealed from or by an order of this Court granting special leave to appeal, the appellant shall, without delay, take all necessary steps to have the printed Record transmitted to the Registrar of this Court, and the Registrar of the Court appealed from shall, with all convenient speed, certify to the Registrar of this Court that the respondent has received notice or is otherwise aware, of the order of the Court appealed from admitting the appeal, or of the order of this Court giving the appellant special leave to appeal.

2. Whenever the decision of the appeal is likely to turn exclusively on a question of law, the appellant may, with the sanction of the Court appealed from, print such parts only of the Record as may be necessary for the discussion of the same.

3. The Registrar of the Court appealed from, as well as the parties and their agents shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and, generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be printed shall be enumerated in a type-written list to be transmitted with the Record.

4. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the Record, as finally printed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

5. The Record shall be prepared and printed under the supervision of the Court appealed from in accordance with the rules contained in First Schedule hereto, and the parties may submit any disputed question arising in connection wherewith to the decision of that Court, and it shall give such directions thereon as the justice of the case may require.

6. When the Record has been made ready, the Registrar of the Court appealed from shall—

- (i) at the expense of the appellant transmit to the Registrar of the Court such number of copies as the Court may direct, or, in the absence of any special direction in this behalf, 25 copies of such Record, one of which copies he shall certify to be correct by signing his name on, or initialing, every eight page thereof and by affixing thereto the Seal of the Court appealed from;
- (ii) give notice of the despatch of the Record to the parties; and
- (iii) send to the Registrar of this Court a certificate as to the date or dates on which the notice under the preceding sub-clause (ii) has been served.

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#### ORDER XVI.

#### APPELLANT'S APPEARANCE AND LODGING OF PETITION OF APPEAL

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#### Withdrawal of Appeal.

6. Where an appellant, who has not lodged his petition of appeal, desires to withdraw his appeal, he shall give notice in writing to that effect to the Registrar of this Court, and the said Registrar shall, with all convenient speed after receipt of such notice, by letter notify the Registrar of the Court appealed from that the appeal has been withdrawn. The said appeal shall thereupon stand dismissed as from the date of the said letter without further order, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court appealed from may think fit to direct.

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#### NON PROSECUTION OF APPEAL.

#### Change of Parties.

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12. Where at any time between the admission of an appeal and the despatch of the Record to this Court, the Record becomes defective by reason of the death or change of status, of a party to the appeal, or for any other reason, the Court appealed from may, notwithstanding the admission of the appeal, on an application in that behalf made by any person interested, grant a certificate show-

ing who, in the opinion of the said Court, is the proper person to be substituted or entered on the Record in place of, or in addition to, the party who has died, or undergone a change of status, or in regard to whom a representation has been made, and the name of such person shall thereupon be deemed to be so substituted or entered on the Record as aforesaid without express order of this Court.

13. If, in the opinion of the Court appealed from, there has been undue delay in making this application, the said Court may order the appellant, or the party interested, to take all necessary steps to perfect the Record within such time as the said Court may direct, and, if he fails to comply with such order, the said Court may call upon him to show cause why a certificate should not be issued that the appeal has not been prosecuted, and if the said Court sees fit to issue such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed, for non-prosecution without express order of this Court, and the cost of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court appealed from may think fit to direct.

14. Where the Record subsequently to its despatch to this Court becomes defective by reason of the death, or change of status, of a party to the appeal, or for any other reason, the Court appealed from shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of this Court showing who, in the opinion of the court appealed from is the proper person to be substituted or entered on the Record in place of, or in addition to, the party who has died or undergone a change of status, or in regard to whom a representation has been made. If in the opinion of the court appealed from, there has been undue delay in making this application, the said Court may order the appellant, or the party interested to take all necessary steps to perfect the Record within such time as the said Court may direct, and if he fails to comply with such order, the said Court shall report the matter to the Registrar of this Court.

15. A petition for an order of Revivor or Substitution shall be accompanied by a certificate from the Court appealed from showing whom in the opinion of the said Court, is the proper person to be substituted, or entered, on the Record in place of, or in addition to the party on record.

#### ORDER XXI.

#### CRIMINAL APPEALS.

\* \* \*

2. The provision contained in Order XIII in relation to applications for special leave to appeal in civil proceedings shall apply *mutatis mutandis* to applications for special leave to appeal in criminal matters:

Provided that in a criminal proceeding involving a sentence of death an application for special leave to appeal shall be lodged in

the Court within thirty days from the date of the refusal of certificate by the High Court or within thirty days from the date of the judgment final order or sentence sought to be appealed from, as the case may be:

Provided further that the Court may for sufficient cause shown extend the time.

X

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X

6. The Registrar of the Court shall there after send a copy of the petition of appeal to the High Court concerned for its record. The High Court shall then arrange for the printing of the record in the case and for the transmission of the printed record to the Registrar of this Court with all convenient speed. In the preparation of the printed record, the High Court may include the printed paper-book prepared for its own use at an earlier stage.

The record shall be printed at the expense of the appellant, unless otherwise ordered by the Court. In appeals involving sentence of death, the record shall be printed at the expense of the Government of the State concerned.

7. As soon as the record has been got ready the Registrar of the High Court shall despatch to the Registrar of this Court not less than fifteen copies. In case falling under Article 134 (i) (u) and (b) the printed record shall be despatched to this Court within a period of forty-five days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal.

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9. After the appeal has been disposed of, the Registrar of the Court shall, with utmost expedition, send a copy of the Court's judgment or order to the High Court concerned.

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11. So far as may be, the preceding Orders in this Part of these Rules shall, with the necessary modifications and adaptations, apply to criminal appeals under this order:

Provided that in criminal proceedings no security for costs shall be required to be deposited, and no Court fee, process-fee, or search-fee shall be charged, and no copying charges shall be made except for copies other than the first to any party to the proceedings.

#### FIRST SCHEDULE.

#### RULES AS TO PRINTING OF RECORD

1. The Record in appeals to the Supreme Court shall be printed in the form known as Demy Quarto.

2. The size of the paper used shall be such that sheet, when folded and trimmed, will be 11 inches in the height and 8 inches in width.

3. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matter and notes. The number of lines in each page of Pica type shall be 47 or thereabout, and every tenth line shall be numbered in the margin.

4. Records shall be arranged in two parts in the same volume, where practicable, viz.—

Part I:—The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the Courts below down to the order admitting the Appeal.

Part II:—The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order i.e., in the same order as the index.

Part II shall be arranged in the most convenient way for the use of the Supreme Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. Each documents shall show its exhibit mark, and whether it is a Plaintiff's or Defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as:

(a) a series of correspondence or

(b) proceedings in a suit other than the one under appeals; shall be kept together. The order in the Record of the document in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the Record in proper order for the Supreme Court, and in difficult cases counsel may be asked to settle it.

7. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered apart from the exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index without the date.

9. Each documents shall have a marginal note which shall be repeated on each page over which the documents extends viz.—

#### PART I.

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one Court, the name of the Court need not appear.

(b) The marginal note of the document shall then appear consisting of the number and the description of the documents in the Index, with the date, except in the case of oral evidence.

(c) In the case of the oral evidence, "Plaintiff's evidence" or "Defendant's evidence" shall appear beneath the name of the Court, and then the marginal note consisting of the number in the Index



and the witnesses name with "Examination", "cross-examination" or "re-examination", as the case may be.

## PART II

The word "Exhibits" shall first appear.

The marginal note of the exhibit shall then appear consisting of the exhibit mark and the description of the document in the Index with the date.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the Record), if desired, with the words "not printed" against it.

A long series of documents, such as accounts, rent rolls, inventories etc. shall not be printed in full, unless counsel so advises, but the parties shall agree to short extracts printed as specimens.

11. In cases where maps are of an inconvenient size or unsuitable in character, the Appellant shall, in agreement with the Respondent, prepare maps drawn properly to scale and of reasonable size, showing as far as possible the claims of the respective parties, in different colours.

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## NOTIFICATIONS UNDER HIGH COURT ORDINANCE

*Published in Raj. Raj-patra Vol. 2 No. 15 Dated May 8, 1950 part I :*

### GOVERNMENT OF RAJASTHAN.

#### JUDICIAL DEPARTMENT.

##### NOTIFICATION.

Jaipur, May 8, 1950.

No. F-3 (19) *Jud/50*.—In pursuance of subsection (1) of section 10 of the Rajasthan High Court Ordinance, 1949 (No. XV of 1949), in modification of Notification No. 155A/J. D./U. S.R., dated August 25, 1949 (published in the Rajasthan Gazette Extraordinary, dated August 26, 1949), and in supersession of Notification No. F. 155/J.B./U.S.R./49, dated September 3, 1949 (published in the Rajasthan Gazette Extraordinary of the same date), His Highness the Raj Pramukh is pleased to direct—

(i) that the High Court of Judicature for Rajasthan shall, on the 22nd day of May, 1950, cease to sit at Bikaner, Kotah and Udaipur;

(ii) that the cases pending before it on the aforesaid day at Bikaner and Udaipur shall be disposed of by the said High Court sitting at Jodhpur;

(iii) that the cases so pending at Kotah shall be disposed of by the said High Court sitting at Jaipur, and

(iv) that the work arising in future in the Udaipur Division shall be disposed of by the said High Court sitting at Jodhpur.

By Order of

His Highness the Raj Pramukh,

PRABHU DAYAL LOIWAL

*Secretary to the Government of Rajasthan,  
Judicial Department.*

*Published in Raj. Raj-patra Dated November 22, 1952 part I at page 819 :*

#### JUDICIAL DEPARTMENT.

##### NOTIFICATION

Jaipur, November 7, 1952.

No. F. 1 (97) *Jud/52*.—In pursuance of sub-section (1) of section 10 of the Rajasthan High Court Ordinance, 1949, (No. XV of 1949), and in further modification of the Judicial Department Notification No. 155-A/J.B./U.S.R., dated the 25th August, 1949, (published in the Rajasthan Gazette, Extraordinary Part I, dated August 25, 1949) His Highness the Rajpramukh is pleased to direct that in clause (i) of the said Notification the words "to dispose of the work arising in the Jaipur and Kotah Divisions" shall be deleted.

Necessary allocation of work shall be made by the Chief Justice under Section 44 (2) of the Rajasthan High Court Ordinance, 1949.

*Published in Raj. Raj-patra Dated April 21, 1956 part I (B) at page 102 :*

RAJASTHAN HIGH COURT, JODHPUR.

NOTIFICATION

*Jodhpur, March 21, 1956.*

No. 4/S. R. O.—In exercise of the powers under sub-section (2) of section 44, of the Rajasthan High Court Ordinance, 1949 and in supersession of the Court's notification No. 50/Gen., dated 26th November 1952, as amended by notification No. 41/S. R. O., dated 16-10-54 the Hon'ble the Chief Justice has been pleased to direct that:—

(a) All cases relating to pleaders and advocates under the Legal Practitioners Act and Indian Bar Council Act shall be disposed of by the Court of Jodhpur.

(b) All other cases arising in the area covered by the revenue divisions of Bikaner, Jodhpur and Udaipur (except such as may by special order of the Chief Justice be transferred to Jaipur Bench) shall be disposed of by the Court at Jodhpur:

(c) All other cases arising in the area covered by the revenue divisions of Jaipur and Kotah (except such as may by special order of the Chief Justice be transferred to the Court at Jodhpur) shall be disposed of by the Jaipur Bench:

Provided that a vacation Judge, whether sitting at Jodhpur or at Jaipur may hear any case irrespective of the area in which it has arisen for the purpose of deciding any matter which in his opinion requires immediate attention.

*Explanation:—*A writ case shall be deemed to arise in the area where the first order pertaining to that case was passed by a Court, Tribunal or Authority irrespective of the area in which the appeal or revision from that order is heard provided it is heard in Rajasthan and irrespective also of the fact whether or not there has been any modification or reversal of the order in appeal or revision.

By order,  
M. L. RAZDAN,  
*Registrar.*

Notification issued by

## THE RAJASTHAN HIGH COURT

Published in Raj. Raj-patra Vol. 2 Dated 24-6-50 part II at page 149 :

Jodhpur, June 9, 1950.

No. 1/Int.—The following instructions are hereby issued with regard to the transfer of cases from one to another:—

1. Where a court of inferior status is set up in place of a court of Superior Jurisdiction, the successor court in the place will retain such cases as it may be competent to hear and transfer the rest to the court or courts having jurisdiction.

2. Where the territorial and/or pecuniary jurisdiction of a court have been altered, the court so ceasing to exercise jurisdiction will transfer such cases as it may not be competent to hear to court or courts having jurisdiction.

3. Where the Small Causes Court ceases to function or its pecuniary and/or territorial jurisdiction have been altered, the court so ceasing to exercise jurisdiction will transfer such cases as it may not be competent to hear to court or Courts having jurisdiction to hear them as cases of civil nature.

4. Where a court doing civil or both civil and criminal work is abolished, the Presiding Officer of the court before relinquishing charge of his office will transfer civil cases to court or courts having jurisdiction and the criminal cases to the District Magistrates of the District concerned as laid down in para 3 (b) of the Government Order dated 25th May, 1950, and published in the Gazette Extraordinary of the same date.

5. Lists of cases transferred will be prepared in triplicate in the form given below, one will be sent with the cases to the court concerned, the other to the High court and the third will be retained in the office of the court for future reference.

### FORM

Serial No.	Case No.	Date of Inst.	Names of parties.	Kind of Case.	Valuation in Civil Case.	Section & Act in Cr. Case.	Remarks.
1	2	3	4	5	6	7	8

By Order,  
MADHO PRASAD GUPTA,  
Registrar.

*Notifications under*

## HIGH COURT RULES

*Published in Raj. Raj-patra Dated November 1, 1956 part IV (c) at page 248 :*

Jodhpur, November 1, 1956.

*No. 21/S.R.O.*—The High Court has with the approval of the Governor been pleased to order that all rules issued by the High Court of the former State of Rajasthan shall have force in the new State of Rajasthan as if they were rules issued by the new Rajasthan High Court, and further that action previously taken under these rules or under any corresponding rule applicable in Ajmer Merwara or Abu areas shall be deemed to have been taken under these rules.

By Order,  
M. L. RAZDAN,  
Registrar.

# HIGH COURT RULES, 1952

Rajasthan High Court, Jodhpur

No. 2/S.R.O.

Dated the 16th Feb., 1963


The following amendment is made in the Rajasthan High Court Rules, 1952.

## Part II Chapter XIII

Amendment No. 80  
Paper Book in  
First Appeal

The existing rule 177 shall be substituted by the following rule :

The paper book in the first appeal shall ordinarily be typewritten unless it is otherwise ordered to be printed by the Court.

By Order,   
(Roop Singh)  
Registrar

Rajasthan High Court, Jodhpur.

October 9, 1964.

Notification No. 6/S.R.O.—The following amendments are made in the Rajasthan High Court Rules, 1952:—

## Part IV—Chapter XXII

Direction, Order or Writ under Article 226 of Constitution other than a writ in the nature of

## HABEAS CORPUS

In Rule 375:

(1) The following shall be substituted for the existing sub-rule [1] of Rule 375:—

1. “An application for a direction under Article 226 of the Constitution other than a writ in the nature of habeas corpus shall be presented to the Registrar who shall direct that the application be laid before a Division Bench or a Judge sitting alone, as the case may be, according to the provisions of Rule 55 for orders”.
2. The following shall be inserted as sub-rule (4) after sub-rule (3):—
3. An application by more than one person shall not be entertained except when the relief claimed is founded on the same cause of action.

## Rajasthan High Court, Jodhpur

**Notification No. 7/S.R.O.**—The following amendments are made in the Rajasthan High Court Rules, 1952:—

## Part I—Chapter V

Jurisdiction of Judges sitting alone or in Division Courts.

In Rule 55:—

(1) The following shall be substituted for the existing sub-rule (b) of clause (x):—

(b) An appeal under section 411-A or section 417 of the Criminal Procedure Code from an order of acquittal passed by a Court other than that of a magistrate”.

(2) The following shall be substituted for the existing clause (xiii):—  
“An application under Article 226 or 227 of the Constitution relating to (a) matters under the Rajasthan Panchayat Act, 1953, Rajasthan Panchayat Samitis and Zila Parishads’ Act, 1959 and the Rajasthan Municipalities Act, 1959, (b) orders passed by Munisiffs, Civil Judges, District Judges, the State Government and other authorities under the aforesaid Acts and (c) orders of Regional Transport Authority or Appellate Tribunal passed under the Motor Vehicles Act.”

[Pub. in Raj. Gaz. Ex. 4 [Ga]—Dt. 3-12-64—Page 554 (3) ]

## Rajasthan High Court, Jodhpur

Jodhpur, April 21, 1965.

**Notification No. 5/S.R.O.**—The following amendment is made in the Rajasthan High Court Rules, 1952:—

## (Amendment) No. 6)

## Part II—Chapter XVI

## Taxation of Advocates Fees

The following shall be substituted for rule 278:—

“The Advocate’s fee shall be Rs. 100/- in an application made under Article 226 of the Constitution and Rs. 75/- in an application made under Article 227 of the Constitution:

Provided that the Court hearing such applications may, having regard to the labour involed in the preparation of the case or the complexity of the issues arising therein or for any other sufficient reason, allow higher fee not exceeding Rs. 500/- in an application made under Article 226 and Rs.250/- in an application made under Article 227 of the Constitution.”

[Pub. in Raj. Gaz. 4 (Ga)—Dt. 29-4-65—Page 58 ]

Rajasthan High Court, Jodhpur

Jodhpur, April 2, 1965.

Notification No. 4/S.R.O.—The following amendment is made in the Rajasthan High Court Rules, 1952:—

(Amendment No. 5)

Part II—Chapter IX

Appeals and Applications

The following shall be inserted as clause (iv) of Rule 135(1):—

“(iv) Two extra typed copies of judgment or order appealed against in a Division Bench case.”

Rajasthan High Court, Jodhpur

Jodhpur, March 31, 1965.

No. 3/S.R.O.—The following amendment is made in the Rajasthan High Court Rules, 1952:—

(Amendment No. 4)

Part III—Chapter XVIII

Proceeding other than original trials.

The following shall be inserted as clause (iii) in Rule 314:—

“(iii) Two extra typed copies of judgment or order appealed against in a Division Bench case.”

( Pub. in Raj. Gaz. 4(Ga) Dt. 20-5-65 at page 114 )

Rajasthan High Court, Jodhpur

Jodhpur, June 1, 1965

Notification No. 6/S.R.O.—The following amendments are made in the Rajasthan High Court Rules, 1952.

Amendment No. (7)

I. Part II—Chapter IX

Appeals and applications.

The word ‘sixty’ occurring in the third line in Rule 134 shall be substituted by the word ‘thirty’.

II. Part V—Chapter XXIII

Appeals to the Supreme Court of India.

Section A—Cases other than Criminal Cases.

The following shall be substituted for the existing rule 388.—

“Article 132 of the Schedule—Third Division Application—of the Limitation Act (Act No. 36 of 1963) shall subject to the provisions of any law for time being in force, also apply to petition for a certificate under Article 132(1) or 135 of the Constitution.”

Section B—Criminal Cases.

The word ‘seven’ occurring in the ninth line in Rule 413 (a) shall be substituted by the word ‘sixty’.

[Pub. in Raj. Gaz. 4 (Ga) Dt. 17-6-65 Page (29)]



## Rajasthan High Court, Jodhpur

Jodhpur, October 27, 1966.

**Notification No. 5/S.R.O.**—The following amendment is made in the Rajasthan High Court Rules, 1952.

**Amendment No. 8****Part— Chapter V**

**Jurisdiction of Judges sitting alone or in Division Courts.**

The following shall be inserted as item [d] in clause (xiii) of Rule 55:—

“[d] writ applications by Civil Servants before or after retirement challenging their dismissal, removal, compoulsory retirement or any other kind of punishment of detemination of seniority, fixation of pay etc.”

[Pub in Raj. Gaz. 4 [Ga] Dt. 17-11-66-Page 381 [5] ]

## Rajasthan High Court, Jodhpur

Jodhpur, December 20, 1966

**Notification No. 7/S.R.O.**—In exercise of the powers conferred by section 46 of the Rajasthan High Court Ordinance, 1949 and Articles 225, 227, 233, 234 and 235 of the Constitution of India and all other powers enatling the Court in that behalf, the following changes and amendments in Chapter III of the Rajasthan High Court Rules, 1952 relating to the administrative and executive business of the Court are made:—

**Amendment No. 10.**

1. The words “Executive and” occurring in the heading of Chapter III shall be omitted;

2. For rules 14 to 22 the following rules shall be substituted:—

“14. Administrative business relating to control over subordinate courts and to superintendence over courts and tribunals.—All administrative business of the Court relating to the control over subordinate courts vested in the Court under Article 235 of the Constitution or otherwise and to the superintendence over the courts and tribunals vested in the Court under Article 227 of the Constitution or otherwise shall be disposed of as provided hereinafter.

15 Matters on which all Judges shall be consluted.—On the following matters all the Judges of the Court shall be consulted, namely:—

- (a) proposals as to legislation or changes in the law;
- (b) proposals as to changes in or the issue of new rules of Court;
- (c) proposals as to changes in or the issue of new rules for the guidance of subordinate courts;
- (d) appointment, promotion and seniority of Judicial Officers;
- (e) withholding of promotion, supersession or reduction of Judicial Officers;

- (f) - removal or dismissal of any Judicial Officer;
- (g) - compulsory retirement of Judicial Officers otherwise than by way of punishment;
- (h) important question of policy or those affecting the powers and status of the Court laid before the Court by the Chief Justice or any other Judge;
- (i) matters connected with the Supreme Court;
- (j) annual administration report;
- (k) matters upon which the Government desires the opinion of the Court, if such matter is considered fit to be laid before the court by the Chief Justice; and
- (l) any matter which the Chief Justice or the Administrative Committee, as constituted under Rule 16, may consider fit to be laid before them for consideration.

16. Administrative Committee.—(1) A Committee of Judges shall be formed composed of the Chief Justice, the Administrative Judge and such other Judge or Judges as the Chief Justice may, from time to time appoint. This Committee shall be called the Administrative Committee.

(2) Subject to these Rules, the Administrative Committee shall Act for the Courts in its administrative business in respect of the matters enumerated in rule 17.

17. Matters on which the Administrative Committee shall be consulted.—The Administrative Committee shall be consulted on the following matters namely—

- (a) the issue of general letters to subordinate courts;
- (b) the issue of directions regarding the preparation of returns and statements; and
- (c) any other matter which the Chief Justice or the Administrative Judge may desire to be brought before it.

18. Consultation how made.—The consultation with the Judges and the Administrative Committee, referred to in Rules 15 and 17 respectively shall be made either by circulating the papers connected with the matter among the Judges or the Administrative Committee, as the case may be, or by laying the matter before a meeting of the Judges or the Administrative committee called by the Chief Justice.

19. Decision in case of difference of opinion.—All the matters referred to in Rule 15 and 17 shall be disposed of in accordance with the views of the majority, and in case the Judges, including the Chief Justice, are equally divided, in accordance with the views of the Chief Justice.

20. Administrative business to be disposed of by the Chief Justice.—Subject to Rules 15 and 17, the administrative business referred to in Rule 14 shall be disposed of by the Chief Justice.

21. Appointment of Administrative Judge on allocation of work —  
(1) The Chief Justice shall appoint a Judge to carry on the general admini-

nistration of the Court. Such Judge shall be called the Administrative Judge and shall dispose of the administrative business in accordance with rule 22.

(2) The Chief Justice may also, by a general or special order, allocate specified business for disposal to any other Judge or a Committee of Judges and such Judge or Committee of Judges shall dispose of the same, subject to any special directions of the Chief Justice.

**22. Work to be submitted to the Administrative Judge.**—All administrative business, except such business as has been specially allocated by the Chief Justice to any other Judge or a committee of Judges, all material correspondence, all returns and statements, except return to a precept or judicial order or explanation called for by a judge or judges, or copies of Judgements in session trials received monthly from Sessions Judges or references to the Court, shall be submitted by the Registrar to the Administrative Judge, together with his observations thereon, if any, and may, subject to these Rules, and to any special directions of the Chief Justice, be disposed of by that Judge."

3. In Rule 23, the words "by order of the Judge in the Administrative Department" shall be omitted.

4. In Rule 24, the words "at Jodhpur and at Jaipur", occurring in the first sentence and the words "or Jaipur, as the case may be" occurring in the last sentence shall be omitted.

5. For Rule 26, the following rule shall be substituted:—

**"26. Papers to be submitted to the Chief Justice after circulation.**—After any papers have been circulated for opinion, they shall, be submitted again to the Chief Justice, who shall examine the matter and issue orders in accordance with Rule 19."

6. For Rule 29, the following Rule shall be substituted:—

**"29. Quorum.**—The quorum necessary for the transaction of business shall be not less than two-third of the members in the case of a meeting of the Administrative Committee and not less than one-half of the Judges in the case of a Judges meeting."

7. The existing Rule 32 shall be re-numbered as Sub-rule (1) of that Rule, and the following new Sub-Rule (2) shall be added:—

**"(2)** For the removal of doubt, it is hereby mentioned that all administrative work disposed of by the Chief Justice, the Administrative Judge or any other Judge or Judges to whom the work has been assigned by the Chief Justice for disposal shall be deemed to be disposed of by the Court."

Rajasthan High Court, Jodhpur

Jodhpur, November 16, 1966

Notification No. 6./S.R.O.—The following amendments are made in the Rajasthan High Court Rules, 1952.—

Amendment No. 9

Part V—Chapter XXIII—Appeals to the Supreme Court of India.

Rule 389.—Clause 1 (b) of rule 389 shall be substituted by the following:—

(b) Notice of lodgement of appeal in the Supreme Court. Clause 1 (c) shall be deleted.

The following shall be inserted as a new sub-rule (4)—

(4) As soon as notice under clause (b) is served a certificate as to the date or dates on which the said notice was served shall be sent to the Supreme Court.

Rule 390—Rule 390 shall be deleted.

„ 391— „ 391 shall be deleted.

„ 392— „ 392 shall be deleted.

„ 394— „ shall be substituted by the following:—

“When the certificate for leave to appeal to the Supreme Court has been granted, the petitioner shall take necessary steps for preparation of record as provided in rules 14 to 28, Order XV of the Supreme Court Rules, 1966.”

Rule 395—Rule 395 shall be deleted.

„ 396— „ 396 shall be deleted.

„ 397— „ 397 shall be deleted.

„ 398— „ 398 shall be deleted.

„ 399— „ 399 shall be deleted.

„ 400—The following shall be substituted for the existing rule 400:—

400 (1) Where the proceedings from which the appeal to the Supreme Court arises were had in this Court or the Courts below in a language other than English the Registrar shall within three months from the date of the service on the respondent of the notice of petition of appeal transmit to the Supreme Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated.

(2) Unless otherwise ordered by the Supreme Court the Registrar shall thereafter transmit to the Supreme Court at the expense of the appellant the original record of the case.

Rule 400—Rule 401 shall be deleted.

„ 402— „ 402 shall be deleted.

„ 403— „ 403 shall be deleted.

„ 404— „ 404 shall be deleted.

„ 405— „ 405 shall be deleted.

- „ 406— „ 406 shall be deleted.  
 „ 407— „ 407 shall be deleted.  
 „ 408— „ 408 shall be deleted.  
 „ 409— „ 409 shall be deleted.  
 „ 410— „ 410 shall be deleted.  
 „ 411— „ 411 shall be deleted.  
 „ 412— „ 412 shall be deleted.  
 „ 412A—After rule 412, a new rule 412-A shall be inserted as

under:—

412-A.—When the record of the case is desired to be prepared in this Court, the provisions contained in rules 14 to 28, Order XV of the Supreme Court Rules, 1966 shall apply *mutatis mutandis*.

Rule 415.—The existing rule 415 shall be substituted by the following:—

“When the record of the case is desired to be prepared in this Court, the provisions contained in rules 17 to 22, Order XXI of the Supreme Court Rules, 1966 shall apply *mutatis mutandis*”

Rule 416—Rule 416 shall be deleted.

- „ 417— „ 417 shall be deleted.  
 „ 418— „ 418 shall be deleted.  
 „ 419— „ 419 shall be deleted.  
 „ 420— „ 420 shall be deleted.

[ Pub. in Raj. Gaz. Ex. 4 (Ga)—Dt. 23-3-67—Page 625 ]

# Rules in Regard to Election Petition under the Representation of People Act, 1951

Rajasthan High Court, Jodhpur  
Jodhpur, March 28, 1967

Notification No. 1/S.R.O.—In exercise of the power conferred by section 46 of the Rajasthan High Court Ordinance, 1949, read with Article 225 of the Constitution of India and all other powers enabling it in that behalf, the High Court of Judicature for Rajasthan, hereby makes the following rules in regard to elections petition under the Representation of the People Act, 1951 :—

1. In these rules, unless the context otherwise requires,—
  - (a) "the Act" shall mean the Representation of the People Act, 1951;
  - (b) "the Code" shall mean the Code of Civil Procedure, 1908;
  - (c) "the High Court" shall mean the High Court of Judicature for Rajasthan ;
  - (d) "the Judge" shall mean the Judge or Judges of the High Court of Judicature for Rajasthan who has or have been assigned by the Chief Justice under sub-section (2) of section 80A of the Representation of the People Act, 1951, for the trial of election petitions.

## The Election Petition

2. All proceedings in the High Court in respect of election petitions shall be conducted in English.

3. All petitions, applications, notes, etc., including copies thereof to be filed in election petitions shall be either "printed, or type-written neatly and legibly with sufficient space between lines on strong and durable foolscap size paper or on a size of paper nearest to the foolscap size according to metric measure, with a margin of not less than 5 cms. Where such petitions, etc., as aforesaid consist of more sheets than one, they shall be stitched in book-form.

4. Election petitions shall be presented, either in person or by an Advocate duly authorised in this behalf by the party concerned, to the Registrar of the High Court or to such other officer as the said Registrar may, with the approval of the Chief Justice, by special or general orders passed from time to time, appoint in this behalf.

5. Every election petition shall, in addition to the contents required by the Act, contain information as to the date of election of the returned candidate or if there be more than one returned candidate at the election and the dates of their election are different, the later of the two dates and shall also show that the election petition is within time as prescribed in section 81 of the Act.

6. The election petition alongwith the necessary copies may be presented, at any time during the Court hours. Immediately after it is presented,

the date of Presentation shall be endorsed thereon, and the petition shall be entered in a special register maintained for the registration of election petitions. The Register shall be in Form No. 32 prescribed under Rule 330 of the General Rule Civil, with necessary modifications. Information about the presentation of the election petition shall be sent to the Election Commission forthwith.

7. After the petition is presented, the party or advocate shall attend the office on the third day from the date of the presentation or any other date, fixed by the Registrar to remove objections, if any. The petitioner shall furnish his address (preferably in Jodhpur) where any communication may be addressed to or served on him.

8. The office shall examine the petition with a view to see whether it is in conformity with the requirements of law and the rule applicable to the same, and if it is not in conformity with law and the rules raise objections which could be removed by the party or the advocate concerned. These objections should be brought to the notice of the party or the advocate on the date fixed for attendance under rule 7 and such objections shall be removed subject to the orders of the Judge, if any, within two days thereafter.

9. Immediately after the time fixed for the removal of objections, the petition shall be placed before the Judge for such orders as may be required to be passed under section 86 of the Act. If the petition is not dismissed under section 86 (1) of the Act, a summons, on the direction of the Judge, shall be issued to the respondents to appear before the High Court on a fixed date and answer the claim or claims made in the petition. Such date shall not be earlier than three weeks from the date of the issue of the summons. The summons shall be for written statement and settlement of issues and shall be served on the respondents through the District Judges in the manner provided for the service of summons. The District Judges will make their best endeavour to serve the summons on the respondents and make a return of the service of the summons with the greatest expedition.

10. In addition to the issue of summons as aforesaid, a summons shall also be sent to the respondent to the address given by the petitioner by registered post pre-paid for acknowledgement. The petitioner shall furnish extra copies of the petition to be served along with the summons by registered post. The acknowledgement purporting to be signed by the opposite party or an endorsement by a postal servant when the opposite party refuses service, shall be deemed to be prima facie proof of the service.

11. Those of the respondents who file written statements or recriminatory statements as provided under section 97 (2) of the Act shall also furnish copies of such written statements and recriminatory statements for the use of the petitioner and other respondents, as the case may be. Where a recriminatory statement under section 97 (2) alleges any corrupt practice, the statement shall be accompanied by any affidavit in support of the allegation of such corrupt practice and the particulars thereof.

12. After the -pleadings in the election petition are received, a date shall be fixed at the direction of the Judge' for (1) discovery of documents, (2) inspection of the documents disclosed, and (3) the production of documents which are in the possession and power of the parties.

13. Issues will then be settled and the election petition will be posted for hearing. Within seven days of the settlement of issues, parties shall file list of witnesses and pay the process-fees and the travelling allowance and the diet allowance for those of them who are required to be summoned. No party shall produce or obtain Process to enforce the attendance of witnesses other than those contained in the above lists:

Provided that it will be in the discretion of the Judge to allow a party to produce witnesses in rebuttal not included in the list on such terms as he may deem fit to impose, if there are sufficient reasons to do so.

14. Parties shall apply for the issue of witness-summons sufficiently in time for the attendance of witnesses after service.. Parties may also produce witnesses without a summons on the date of the hearing, provided they have filed a list of the same as required under Rule 12.

15. Process fees to be paid shall be the same as provided in Rule 840 of the Rajasthan High Court Rules, 1952.

16. A party applying for a summons to a witness shall be required to deposit at the time of applying for summons a sum sufficient to cover the travelling allowance and the diet allowance of the witness according to the scale given under Rule 17. Payment shall be made to the witness out of amounts so deposited after the witness has given evidence or he is discharged by the Judge.

17. Travelling allowance for the journey from the place of residence to the place where evidence is required to be given and back to the place of residence and diet allowance shall be paid to the witness according to the scale indicated below :—

Class of witness	Travelling Allowance	Diet Allowance
<b>Class I</b>		
Professional men of high position Members of Parliament and of the State Legislature large land owners and owners of big business organisation; and Class I Government Officials who are required to attend the Court in their private capacity.	First Class Rail Fare	Rs 20/- per day.
<b>Class II</b>		
Members of Local Bodies, Ordinary professional and business men, land owners, other than small farmers,	Second Class Rail Fare (or First Class per day Rail	Rs 12/-



Class of witness	Travelling Allowance	Diet Allowance
officer employees in business organisations, Corporations and local bodies and Class II Government officials who are required to attend the Court in their private capacity.	Fare if Admissible under the State Service Rules for Journey on duty)	
Class III		
Artisans, clerks, small land owners, village officers, and employees in lower grades of Corporations, local bodies and business organisations and Class III Government servants who are required to attend the Court in their private capacity.	Second Class Rail Fare	Rs. 8/- per day.
Class IV		
Labourers, petty shop keepers, pedlars and persons other than those in the above classes and Class IV Government servants who are required to attend the Court in their private capacity.	Third Class Rail Fare	Rs. 4/- per day.

Note 1:—If in addition to travelling by rail a witness is required to travel by bus also, the actual bus fare paid for such part of the journey shall also be admissible as travelling allowance.

Note 2—Diet allowance shall be payable, irrespective of the distance travelled for the actual time required for the journey each way, and also for the time taken in giving evidence and for the time of detention necessary for the purpose of the giving evidence. A part of the day shall be counted as equal to a day.

Note 3:—The Registrar shall decide to which class a witness belongs. A witness dissatisfied by his decision may request that a reference be made to the Judge and upon such request the question shall be referred to the Judge. The Judge thereupon shall give such direction as he thinks just and proper in the case.

Note 4—In the case of Experts and professional persons and in cases in which the Judge thinks Special rates should be awarded, the Judge may award higher rates of diet allowance than provided for in his scale.

Note 5—In cases not fully or clearly covered by this scale or in cases where the Judge thinks special considerations should prevail, the Judge shall award such amounts for travelling allowance, and diet allowance, as he deems proper.

18. As soon as an order is passed by the Court under sub-section (2) of section 109, or under Clause (b) of sub-section (3) of section 110, or under sub-section (2) of section 112, or under section 114 directing any matter to be published in the Official Gazette, or otherwise than in the Official Gazette, the office shall get the same published at the cost of such of the parties as the Judge may direct in that behalf. The matter directed to be published in the Official Gazette shall be published in the State Government Gazette or the Gazette of India, as the case may be.

19. As soon as an election petition is dismissed by the High Court under sub-section (1) of section 86, or the same has been finally disposed of on merits as provided for under sections 98 and 99, or the High Court passes an order under sub-section (1) of section 116-B, the office shall intimate the order or the decision of the High Court (i) to the Election commission and (ii) the Speaker or the Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned; and thereafter, as soon as possible, it shall also forward to the Election Commission an authenticated copy of the judgment and the formal order of the Court. The office shall also report to the Election Commission when an election petition is allowed to be withdrawn under section 111 after orders are passed in that behalf by the High Court. Where an election petition abates and no attempt has been made for substituting another person for continuing the said petition as provided under section 116, and the Court passes a final order treating the petition as abated, the office shall also report to the Election Commission.

20. A diary or index of proceedings showing the course of the election petition from the beginning to the end in chronological order shall be maintained in each election petition in accordance with Rules 69 and 70 of the Rajasthan High Court Rules.

#### Applications in the Petition

21. All applications in each Election Petition shall be separately recorded in a register maintained for the purpose. The Registrar in respect of each election petition shall have the following columns:—

#### Register of Applications

##### Election Petition No.

Serial No. of Application in the Election petition	Date of Presentation	Nature of Application	Date and substance of final order
1	2	3	4

When an application is filed, the same shall be placed before the Judge as part of the Election petition for passing necessary orders.

22. Applications made to the Court in a pending election petition shall be styled as "Application in the Election Petition No.... .."

### Advocates

23.(a) An Advocate intending to act for a party shall file a Vakalatnama signed by that party.

(b) All notices, processes, etc. shall be served on the Advocate at the office address given by him, unless the judge otherwise directs, such service will be regarded as proper service on the party.

24. A party shall be entitled to advocate's fees at the rate of Rs. 150/- per day of hearing, if represented by more than one advocate, and at the rate of Rs. 100/- if represented by one advocate, subject, however, to the direction of the Judge to allow a higher or lower rate of fees :

Provided that the total advocate's fees shall not exceed Rs. 2,000.

Provided further that no fees would be taxable unless a certificate of receipt of fees is filed before commencement of final arguments.

### Costs

25(a) The security for costs shall be paid in cash. The payment shall be made by means of a printed tender form in triplicate duly filled in English by the payer. The payer shall present the form to the Registrar between the hours of 10.30 A.M. and 11 30 A.M. (or when the Court is observing morning hours, between 7.30 A.M. and 8.30 A.M.). The Registrar shall put his signatures on the tender form, shall get the tender entered in the register of tenders and sign the order to receive payment on the duplicate and triplicate forms of the tender. Thereafter cash challan (Form No. GA. 57) shall be filled in duplicate by the Superintendents, Accounts Section, and handed over to the payer for presentation and payment of the money to the State Bank of India, Jodhpur. On presentation of the challan and on payment of the money in the Bank the payer shall receive as an acknowledgement one of the forms of challan duly signed and the other form shall be retained by the Bank as a voucher. The payer shall present the challan given by the Bank to the Superintendent. Accountant section, who shall make necessary entries in the tender form. The original tender shall be filed with the record of the election petition, the duplicate tender shall be given to the payer, and the triplicate tender shall be kept in the Accounts Section.

(b) Where, pending the trial of the election petition, a petitioner is directed to give further security for costs, the amount of such further costs, shall be similarly deposited in the Bank.

(c) The amount deposited shall be credited to the Head "Civil Court Deposits."

#### Miscellaneous

26. No document in any language other than English shall be admitted in evidence unless it is accompanied by an English translation which shall either be the official translation or a translation the accuracy of which is certified by an Advocate of the High Court. Costs of the translation shall be at the discretion of the Court.

27. All rules of the High Court applicable to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to the Court arising from a decree of the High Court in a Civil Appeal shall apply *mutatis mutandis* to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decision of the High Court in an election petition, subject, however, to the provisions of the Act and the rules which the Supreme Court may make in that behalf.

28. Where no specific provision is made in the Act, the Code or the above Rules, the Rajasthan High Court Rules, 1952 shall apply *mutatis mutandis* or as the Judge may direct.

[Pub. in Raj. Gaz. Ex. 4 (Ga)-Dt. 2-4-67-Page 3]

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*Rules and Notifications under*

HINDU MARRIAGE ACT, 1955 ( CENTRAL ACT  
No. 25 OF 1955 ).

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# Rajasthan Hindu Marriage Registration Rules, 1956

*Jaipur, November 12, 1957.*

No. F. 19 (51) Jud./55.—In exercise of the powers conferred by sub-section (1) of section 8 of the Hindu Marriage Act, 1955 (XXV of 1955), the State Government are pleased to make the following rules relating to the registration of Hindu Marriages, namely:—

1. These rules may be cited as the Rajasthan Hindu Marriage Registration Rules, 1956.

## *Notes*

These rules have been framed in exercise of the powers conferred by sub-section (1) of section 8 of the Hindu Marriage Act, 1955. Section 8 of the Act reads as under:—

(1) For the purpose of facilitating the proof of Hindu marriages, the State Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed in a Hindu Marriage Register kept for the purpose.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, if it is of opinion that it is necessary or expedient so to do, provide that the entering of the particulars referred to in sub-section (1) shall be compulsory in the State or in any part thereof, whether in all cases or in such cases as may be specified, and where any such direction has been issued, any person contravening any rule made in this behalf shall be punishable with fine which may extend to twenty-five rupees.

(3) All rules made under this section shall be laid before the State Legislature, as soon as may be, after they are made.

(4) The Hindu Marriage Register shall at all reasonable times be open for inspection, and shall be admissible as evidence of the statements therein contained and certified extracts therefrom shall, on application, be given by the Registrar on payment to him of the prescribed fee.

(5) Notwithstanding anything contained in this section, the validity of any Hindu marriage shall in no way be affected by the omission to make the entry.

2. In these rules,—

(a) "Act" means the Hindu Marriages Act, 1955 (XXV of 1955);

(b) "Marriage" means the Hindu Marriage solemnised under the Act;

(c) "Register" means the Hindu Marriage Register referred to in section 8;

(d) "Registrar" means the Collector of the district in which the marriage is solemnised;

(e) "Section" means a section of the Act.

3. (1) Every Registrar shall maintain a register which shall be in the form of a paste-book, consisting of blank butts serially numbered.

(2) The Registrar shall certify under his signature, on the title page of every blank register, the number of pages actually

*These rules have been first published in Rajasthan Raj-patra dated Dec. 12, 1957, in Part IV (c) at page 733.*

contained in such register, and shall also note the date on which the register was opened by him.

(3) The registers, used by the Registrar, shall be numbered serially, beginning with the figure "1".

4. (1) Every application for registration of particulars relating to a marriage, shall be made to the Registrar in the Form appended to these rules within a period of thirty days from the date of the marriage. Such application shall be signed by the parties to the marriage, and where the bride shall not have completed the age of 18 years, it shall, in addition, be signed by her guardian in marriage with whose consent the marriage was solemnised.

(2) Such application shall also be signed by the officiating priest, if any.

(3) It shall be accompanied by a fee Rs. 2.

5. Every application, received by the Registrar, shall be filed by him in the register by pasting it on the first blank but available in this current register. The application shall be endorsed by the Registrar with the following endorsement on the reverse thereof.

"The application and the fee of Rs. 2 were received by me on.....19..... and the application is filed at Serial No.....19..... on page..... of Volume..... of the Registrar of Hindu Marriages, maintained under the Hindu Marriage Act, 1955 (XXV of 1955).

Dated.....19 .

(Signature).....  
Registrar of Hindu Marriages."

6. (1) If any application received by the Registrar under rule 4 is not accompanied by a fee of Rs. 2, or it is defective in any respect, the Registrar shall refuse to entertain the application, unless the parties to the marriage pay the said fee or remedy the defect, as the case may be, within such time as may be specified by him.

(2) If the Registrar receiving such application has no jurisdiction to receive the same, he shall send the application to the Registrar having such jurisdiction and inform the persons making the application accordingly.

7. (1) Blank forms of application shall on request be supplied free of charge to the parties to a marriage by the Registrar.

(2) The Registrar may also supply free of charge to any priest or to such other persons as he may deem fit a reasonable number of blank forms provided that such priest or other person undertakes to render an account of the forms, when he requests for further supply of such forms.

8. The fee for obtaining certified extracts from the register in respect of a marriage shall be Re. 1.

"UNDER THE HINDU MARRIAGE ACT, 1955 (XXV of 1955). Received by him as follows:—

\*For certified extracts from the register.

10. All the fees received by the Registrar shall be credited to the State Government.

[ See Rule 4 (1) ]

1. Date of marriage. ....
2. Place of marriage (with sufficient particulars to locate the place). ....
3. (a) Full name of the bridegroom. ....  
(b) Full name of his father or guardian. ....  
(c) His age ....  
(d) Usual place of residence .. ....  
(e) Address ....  
(f) Status of the bridegroom at the time of marriage whether. Unmarried/Widower/Divorced.  
(g) Signature of the bridegroom with date. ....
4. (a) Full name of the bride. ....  
(b) Full name of her father or guardian. ....  
(c) Her age ....  
(d) Usual place of residence. ....  
(e) Address ....  
(f) Status of the bride at the time of marriage whether. Unmarried/Widow/Divorced.

\*Here fill in the number of certified extracts.



- (g) Signature of the bride with date. ....
- \*(h) Signature of the father or guardian in marriage with whose consent the marriage was solemnised .....
5. (a) Full name of the officiating priest. ....
- (b) His age . . . . .
- (c) Usual place of residence. ....
- (d) Address .... .
- (e) Signature of the officiating priest, with date. ....

### VERIFICATION.

We,.....(the husband)  
and.....(the wife),  
do hereby verify that the particulars of our marriage given above  
are true to the best of our knowledge and belief.

Signed and verified this.....day of  
.....195 .

(1).....(Husband)

(2).....(Wife).

By Order of the Governor,  
PRABHU DAYAL LOWIWAL,  
*Secretary to the Government.*

# HINDU MARRIAGE AND DIVORCE RULES, 1956

*Jodhpur, March 23, 1956.*

No. 5/S. R. O.—In exercise of the powers conferred by sections 14 and 21 of the Hindu Marriage Act, 1955 (Act XXV of 1955) the Hon'ble the Chief Justice and Judges are pleased to make the following Rules for carrying out the purposes of the Act :—

## *Notes*

These rules have been framed by the Hon'ble the Chief Justice and Judges of the Rajasthan High Court in exercise of powers conferred in this behalf by sections 14 and 21 of the Hindu Marriage Act. Section 14 of the Act provides that no petition for divorce shall be presented within 3 years of marriage. The proviso to this section, however, allows such petition within 3 years in accordance with rules as may be made by the High Court in that behalf. The rules 801 Q and 801 R of these rules are meant to put into effect the provisions of the proviso to sub-section (1) of section 14 of the Act. The remaining rules have been framed in pursuance of power conferred by section 21 of the Act which reads as under :—

Subject to the other provisions contained in this Act and to such rules as the High Court may make in this behalf, all proceedings under this Act shall be regulated, as far as may be, by the Code of Civil Procedure, 1908 (Act V of 1908.)

Their Lordships have thought it fit to insert these rules as Chapter XXXII-A in the Rajasthan High Court Rules and the rules, therefore, have been numbered accordingly.

801A. *Short title and commencement.*—(i) These Rules may be called the Hindu Marriage and Divorce Rules, 1956.

(ii) These Rules shall come into force on 1st June, 1956.

801B. *Definitions.* (i) "Act" means the Hindu Marriage Act, 1955 (Act XXV of 1955).

(ii) "Code" means the Code of Civil Procedure, 1908.

(iii) "Court" means the Court mentioned in section 3 (b) of the Act.

801C. *Petition.*—Every petition under the Act shall be accompanied by a certified extract from the Hindu Marriage Register maintained under section 8 of the Act.

## *Notes*

Sub-section (1) of section 8 of the Act provides for registration of hindu marriages. The register mentioned in this rule is to be maintained in accordance with the Rajasthan Hindu Marriage Registration Rules, 1956.

801D. *Service of petitions.*—Every petition and notice under the Act shall be served on the party affected thereby in the manner provided for service of summons under order V of the Code:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

801E. *Contents of petitions.*—(i) In addition to the particulars required to be given under Order VII, Rule 1, of the Code and section 20 (1) of the Act, every petition for judicial separation, nullity of marriage and divorce shall contain the following particulars :—

- (a) the place and date of marriage;
- (b) the name, status and domicile of the wife and husband, before and after the marriage;
- (c) the principal permanent address where the parties cohabited including the address where they last resided together;
- (d) whether there is living any issue of the marriage and, if so, the names and dates of Birth or ages of such issues ;
- (e) whether there have been in any Court in India, and if so what previous proceedings with references to the marriage by or on behalf of either of the parties and the result of such proceedings;
- (f) the matrimonial offence or offences charged, set out in separate paragraphs with the time and place of its or their alleged commission;
- (g) property mentioned in section 27 of the Act, if any;
- (h) the relief or reliefs prayed for.

#### Notes

Rule (1) of Order 7 of Civil Procedure Code requires that,—The plaint shall contain the following particulars :

- (a) the name of the Court in which the suit is brought ;
- (b) the name, description and place of residence of the plaintiff ;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained ;
- (d) where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect ;
- (e) the facts constituting the cause of action and when it arose ;
- (f) the facts showing that the Court has jurisdiction ;
- (g) the relief which the plaintiff claims ;
- (h) where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished ; and
- (i) a statement of the value of the subject-matter of the suit for the purposes of jurisdiction and of court-fees, so far as the case admits.

The petition referred to in the above sub-rule shall contain the particular mentioned in Rule (1) of Order VII of Civil Procedure Code.

(ii) In every petition presented by a husband for divorce on the ground that his wife is living in adultery with any person or persons or for judicial separation on the ground that his wife has committed adultery with any person or persons, the petitioner shall state the name, occupation and place of residence of such person or persons so far as they can be ascertained;

(iii) In every petition presented by a wife for divorce on the ground that her husband is living in adultery with any

woman or women or for judicial separation, on the ground that her husband has committed adultery with any woman or women, the petitioner shall state the name, occupation and place of residence of such woman or women, so far as they can be ascertained;

801F. Every petition for divorce on any of the grounds mentioned in clause (viii) or (ix) of sub-section (1) of section 13 of the Act shall be accompanied by a certified copy of the decree for judicial separation or for restitution of conjugal rights as the case may be.

#### Notes

Section 13 (1) of the Act provides that,—“Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party.—

(viii) has not resumed cohabitation for a space of two years or upwards after the passing of a decree for judicial separation against that party; or

(ix) has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree.

The petition for divorce, under section 13 of the Act on the above grounds, is required to be accompanied by the certified copy of the decree referred to in these clauses.

801G. *Necessary parties.*—(a) In every petition for divorce or judicial separation on the ground that the Respondent is living in adultery or has committed adultery with any person the petitioner shall make such person a co-respondent. The petitioner may, however, apply to the Court by an application supported by an affidavit for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds :—

- (i) that the name of such person is unknown to the petitioner although he has made due efforts for discovery;
- (ii) that such person is dead;
- (iii) that the respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom adultery has been committed.
- (iv) for any other sufficient reason the Court may deem fit to consider.

(b) In every petition under section 13 (2) (i) of the Act the petitioner shall make “the other wife” mentioned in that section a co-respondent.

#### Notes

Section 13 (2) (i) of the Act gives a wife a right to present a petition for the dissolution of marriage by a decree of divorce on the ground,—

(i) in the case of any marriage solemnised before the commencement of this Act, that the husband had married again before such commencement or that any other wife of the husband married before such commencement was alive at the time of the solemnisation of the marriage of the petitioner :

Provided that in either case the other wife is alive at the time of the presentation of the petition ; or

The "other wife", mentioned in this sub-section shall be a co-respondent in the said petition.

(c) In every petition under section 11 of the Act on the ground that the condition in section 5 (1) is contravened, the petitioner shall make the spouse alleged to be living at the time of the marriage a co-respondent.

#### Notes

Section 11 of the Act provides that,—Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto, be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of Section 5.

801H. *Verification of petition.*—Statements contained in every petition shall be verified by the petitioner or some other competent person in the manner required by the Code for the verification of plaints.

801I. *Forms of petitions.*—The petitions made under the Act shall, so far as possible, be made in the forms prescribed in the Schedule to the Indian Divorce Act, 1869 (IV of 1869).

#### Notes

Schedule to the Indian Divorce Act, 1869 prescribes the forms for the following purposes :—

#### SCHEDULE OF FORMS

No. 1.—PETITION BY HUSBAND FOR A DISSOLUTION OF MARRIAGE WITH DAMAGES AGAINST CO-RESPONDENT BY REASON OF ADULTERY  
(See sections 10 and 34)

In the (High) Court of

To the Hon'ble Mr. Justice

[or To the Judge of  
The day of  
The petition of A. B., of

]

SHEWETH,

1. That your petitioner was on the day of , one thousand nine hundred and , lawfully married to C. B., the C. D., spinster, at .

2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at , in , and lastly at in , and that your petitioner and his said wife have had issue of their said marriage, five children, of whom two sons only survive, aged respectively twelve and fourteen years.

3. That during the three years immediately preceding the day of one thousand nine hundred and , X. Y. was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said C. B. in your petitioner's said house committed adultery with the said X. Y.

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said X. Y. do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Court seems fit.

(Signed) A. B.

*Form of Verification*

1, A.B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2—RESPONDENT'S STATEMENT IN ANSWER TO No. 1  
In the Court of

The                      day of  
Between A.B., petitioner,  
C.B., respondent, and  
X.Y., co-respondent.

C.B., the respondent, by D.E., her attorney [or vakil], in answer to the petition of A.B., says that she denies that she has on divers or any occasions committed adultery with X.Y., as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Hon'ble) Court will reject the said petition.

(Signed) C. B.

No. 3—CO-RESPONDENTS STATEMENT IN ANSWER TO No. 1  
In the (High) Court of

The                      day of  
Between A.B., petitioner,  
C.B., respondent, and  
X.Y., co-respondent.

X.Y., the co-respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said C.B. as alleged in the said petition.

Wherefore the said X.Y. prays that this (Hon'ble) Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition.

(Signed) X. Y.

No. 4—PETITION FOR DECREE OF NULLITY OF MARRIAGE  
(See section 18)

In the (High) Court of  
To the Hon'ble Mr. Justice

[or To the Judge of                      ]  
The                      day  
The petition of A. B., falsely called A. D.,

SHEWETH,

1. That on the                      day of                      , one thousand nine hundred and                      , your petitioner, then a spinster, eighteen years of age, was married in fact, though not in law, to C. D., then a bachelor of about thirty years of age, at [some place in India].

2. That from the said                      day of                      , one thousand nine hundred and                      , until the month of                      , one thousand nine hundred and                      , your petitioner lived and cohabited with the said C. D., at divers places and particularly at                      aforesaid.

3. That the said C. D. has never consummated the said pretended marriage by copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said C. D. was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said C. D. with respect to the subject of this suit.

Your petitioner therefore prays that this (Hon'ble) Court will declare that the said marriage is null and void.

(Signed) A. B.

*Form of Verification : see No. 1*

No. 5.—PETITION BY WIFE FOR JUDICIAL SEPARATION ON THE  
GROUND OF HER HUSBAND'S ADULTERY  
(See section 22)

In the (High) Court of  
To the Hon'ble Mr. Justice [or To the Judge of ]  
The day of  
The petition of C. B., of , the wife of A. B.

SHEWETH,

1. That on the day of , one thousand nine hundred and , your petitioner, then C. D., was lawfully married to A. B. at the Church of , in the

2. That after her said marriage, your petitioner cohabited with the said A. B. at and at , and that your petitioner and her said husband have issue living of their said marriage, three children, to wit, etc. etc.

3. That on divers occasions in or about the months of August, September and October, one thousand nine hundred and , the said A. B., at aforesaid, committed adultery with E. F., who was then living in the service of the said A. B. and your petitioner at their said residence aforesaid.

4. That on divers occasions in the months of October, November and December, one thousand nine hundred and , the said A. B., at aforesaid, committed adultery with G. H., who was then living in the service of the said A. B., and your petitioner at their said residence aforesaid.

5. That no collusion or connivance exists between your petitioner and the said A. B. with respect to the subject of the present suit.

Your petitioner therefore prays that this (Hon'ble) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed) C. B.

*Form of Verification : see No. 1*

No. 6.—STATEMENT IN ANSWER TO No. 5

In the (High) Court of  
B. against B.

The day of

The respondent, A. B., by W. Y., his attorney [or vakil], saith,—

1. That he denies that he committed adultery with E. F., as in the third paragraph of petition alleged.

2. That the petitioner condoned the said adultery with E. F., if any.

3. That he denies that he committed adultery with G. H., as in the fourth paragraph of the petition alleged.

4. That the petitioner condoned the said adultery with G. H., if any.

Wherefore this respondent prays that this (Hon'ble) Court will reject the prayer of the said petitioner.

(Signed) A. B.

No. 7.—STATEMENT IN REPLY TO No. 6

In the (High) Court of

B. against B.

The day of

The petitioner, C. B., by her attorney [or vakil], says,—

1. That she denies that she condoned the said adultery of the respondent with E. F., as in the second paragraph of the statement in answer alleged.

2. That even if she had condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with G. H., as set forth in the fourth paragraph of the petition.

(Signed) C. B.

# No. 8.—PETITION FOR A JUDICIAL SEPARATION BY REASON OF CRUELTY

(See section 22)

In the (High) Court of

To the Hon'ble Mr. Justice

[or To the Judge of  
day of ]

The

The petition of A. B. (wife of C. B.) of  
SHEWETH,

1. That on the                      day of                      , one thousand nine hundred and  
your petitioner, then A. D., spinster, was lawfully married to  
C. B., at

2. That from her said marriage, your petitioner lived and cohabited  
with her said husband at                      until the                      day of                      , one  
thousand nine hundred and                      , when your petitioner separated  
from her said husband as hereinafter more particularly mentioned and that  
your petitioner and her said husband have had no issue of their said  
marriage.

3. That from and shortly after your petitioner's said marriage, the  
said C. B. habitually conducted himself towards your petitioner with great  
harshness and cruelty, frequently abusing her in the coarsest and most  
insulting language, and beating her with his fists, with a cane, or with some  
other weapon.

4. That on an evening in or about the month of                      one thousand  
nine hundred and                      , the said C. B. in the highway and opposite to the  
house in which your petitioner and the said C. B. were then residing at                      afore-  
said, endeavoured to knock your petitioner down, and was only prevented from so  
doing by the interference of F. D., your petitioner's brother.

5. That subsequently on the same evening, the said C. B., in his said house  
at                      aforesaid, struck your petitioner with his clenched fists a violent  
blow on her face.

6. That on one Friday night in the month of                      , one thousand  
nine hundred and                      , the said C. B., in                      , without provocation  
threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the                      day of                      , one thousand  
nine hundred and                      , your petitioner, by reason of the great and continued  
cruelty practised towards her by her said husband, with assistance withdrew from  
the house of her said husband to the house of her father at                      , that from  
and after the said                      day of                      , one thousand nine  
hundred and                      , your petitioner hath lived separate and apart from her  
said husband, and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her  
said husband with respect to the subject of the present suit.

Your petitioner therefore prays that this (Hon'ble) Court will decree a judicial  
separation between your petitioner and the said C. B., and also order that the said  
C. B. do pay the costs of and incident to these proceedings.

(Signed)

A. B.

*Form of Verification: see No. 1*

## No. 9.—STATEMENT IN ANSWER TO No. 8

In the (High) Court of

The                      day of

Between A. B., petitioner, and C. B., respondent.

C. B., the respondent, in answer to the petition filed in this cause, by W. J.,  
his attorney [or vakil], saith that he denies that he has been guilty of cruelty towards  
the said A. B., as alleged in the said petition.

(Signed)

C. B.

## No. 10.—PETITION FOR REVERSAL OF DECREE OF SEPARATION (See section 24)



In the (High) Court of  
To the Hon'ble Mr. Justice [or To the Judge of ]  
The day of

The petition of A. B., of

SHEWETH,

1. That your petitioner was on the day of , lawfully married to

2. That on the day of , this (Hon'ble) Court, at the petition of , pronounced a decree affecting the petitioner to the effect following, to wit—

[Here set out the decree]

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[State facts tending to show that the petitioner did not know of the proceedings; and further, that had he known he might have offered a sufficient defence]  
or

That there was reasonable ground for your petitioner leaving his said wife or that his said wife

[Here state any legal grounds justifying the petitioner's separation from his wife.]

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) A. B.

Form of Verification : see No. 1

#### No. 11.—PETITION FOR PROTECTION ORDER (See section 27)

In the (High) Court of  
To the Hon'ble Mr. Justice [or To the Judge of ]  
The day of

The petition of C. B., of  
the wife of A. B.

SHEWETH,

That on the day of she was lawfully married to A. B. at

That she lived and cohabited with the said A. B. for years at , and also at , and had had children, issue of her said marriage, of whom are now living with the applicant, and wholly dependent upon her earnings.

That on or about , the said A. B., without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [or on her own property, as the case may be] and hath thereby and otherwise acquired certain property consisting of [here state generally the nature of the property].

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of from the said A. B., and from all creditors and persons claiming under him.

(Signed) C. B.

#### No. 12.—PETITION FOR ALIMONY PENDING THE SUIT (See section 36)

In the (High) Court of

To the Hon'ble Mr. Justice B. against B.  
[or To the Judge of ]  
The day of ;

The petition of C. B., the lawful wife of A. B.

SHEWETH,

1. That the said A. B. has for some years carried on the business of \_\_\_\_\_, at \_\_\_\_\_, and from such business derives the net annual income of form Rs. 4,000 to 5,000.

2. That the said A. B. is possessed of plate, furniture, linen and other effects at his said house \_\_\_\_\_ aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs. 10,000.

3. That the said A. B. is entitled, under the will of his father, subject to the life-interest of his mother therein, to the property of the value of Rs. 5,000 or some other considerable amount.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony pending the suit, as to this (Hon'ble) Court may seem meet.

(Signed) C. B.

*Form of Verification : see No. 1*

No. 13.—STATEMENT IN ANSWER TO No. 12

In the (High) Court of

B. against B.

A. B., of \_\_\_\_\_, the above-named respondent, in answer to the petition for alimony, pending the suit of C. B., says—

In answer to the first paragraph of the said petition, I say that I have for the last *three* years carried on the business of \_\_\_\_\_ at \_\_\_\_\_, and that, from such business, I have derived a net annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen and other chattels and effects at my said house \_\_\_\_\_ aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portions thereof I have since purchased with my own moneys. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000, that is to say, I shall be entitled under my said father's will, upon the death of my mother, to a legacy of Rs. 7,000, out of which I shall have to pay to my father's executors the sum of Rs. 2,000, the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me, which she did on the \_\_\_\_\_ day of \_\_\_\_\_ last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late father's executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling-house on the \_\_\_\_\_ day on \_\_\_\_\_ last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least; and I also say that, within five days of her departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs. \_\_\_\_\_ and that she has ever since withheld from me the same sum.

(Signed) A. B.

No. 14.—UNDERTAKING BY MINOR'S NEXT FRIEND TO BE  
ANSWERABLE FOR RESPONDENT'S COSTS  
(See section 49)

In the (High) Court of

I, the undersigned, A. B., of \_\_\_\_\_, being the next friend of C. D., who is a minor and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against D. D. of \_\_\_\_\_, hereby undertake to be responsible for the costs of the said D. D. in such suit, and that, if the said D. D. fail to pay to the D. D. when and in such manner as the Court shall order all such costs of such suit the Court shall direct him (or her) to pay to the said D. D., I will forthwith pay the same to the proper officer of this Court.

Dated this

day of

(Signed) A. B.

The forms in accordance with this schedule are appended to these rules.

801J. *Notice.*—The Court shall issue notice to the respondent and co-respondent, if any. The notice shall be accompanied by a copy of the petition. The notice shall require, unless the Court otherwise directs, the respondent or co-respondent to file his or her statement in Court within a period of four weeks from the service of the notice and to serve a copy thereof upon each of the other parties to the petition within the aforesaid period.

601K. *Written statements in answers to petitions by Respondents.*—The Respondent may and, if so required by the Court, shall present a written statement in answer to the petition. The provisions of Order VIII of the Code shall apply *mutatis mutandis* to such written statements. In particular, if in any proceedings for divorce the Respondent opposes the relief sought in the petition on the ground of the petitioner's adultery, cruelty or desertion, the written statement shall state the particulars of such adultery, cruelty or desertion.

801L. *Intervenor petitions.*—(1) Unless the Court for good cause shown otherwise directs, where the written statement of the respondent alleges adultery by the petitioner with a named man or woman, a certified copy of such statement or such material portion thereof containing such allegation shall be served on such man or woman accompanied by a notice that such person is entitled within the time therein specified to apply for leave to intervene in the cause.

(2) (a) *Costs regarding intervention.*—Whenever the Court finds that an intervenor had no sufficient grounds for intervening, it may order the intervenor to pay the whole or any part of the costs occasioned by the application to intervene.

(b) When the Court finds that the charge or allegation of adultery against the intervenor made in any petition or written statement is baseless or not proved and that the intervention is justified, it may order the person making such charge or allegation against the intervenor to pay to the intervenor the whole or any part of the costs of intervention.

801M. *Answer*.—A person to whom leave to intervene has been granted may file in the Court an answer to written statement containing the charges or allegations against such intervenor.

801N. *Mode of taking evidence*.—The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined like any other witness:

Provided that the parties shall be at liberty to verify the respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined, by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

801O. *Costs*.—Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings :

Provided that the co-respondent shall not be ordered to pay the petitioner's costs—

(i) If the respondent was at the time of the adultery living apart from her husband and leading the life of prostitute or

(ii) If the co-respondent has not, at the time of adultery reason to believe the respondent to be a married person.

801P. *Application for alimony and maintenance*.—(a) Every application for maintenance pendente lite permanent alimony and maintenance, or for custody, maintenance and education expenses of minor children, shall state the average monthly incomes of the petitioner and the respondent, the sources of these incomes, particulars of other movable and immovable property owned by them, the number of dependents on the petitioner and the respondent and the names and ages of such dependents.

(b) Such application shall be supported by an affidavit of the applicant.

801Q. *Application for leave under section 14 of the Act*.—

(1) Where any party to a marriage desires to present a petition for divorce within three years of such marriage, he or she shall obtain leave of the Court under section 14 of the Act on *ex-parte* application made to the Court in which the petition for divorce is intended to be filed.

(2) The application shall be accompanied by the petition intended to be filed bearing the proper Court-fee under the law and in accordance with the rules. The application shall be supported by an affidavit made by the petitioner setting out the particulars of exceptional hardships to the petitioner or exceptional depravity on the part of the respondent on which leave is sought.

(3) The evidence in such application may, unless the Court otherwise directs, be given by affidavit.

(4) When the Court grants leave, the petition shall be deemed to have been duly filed on the date of the said order. The petitioner within a week of the date of the said order shall file sufficient number of copies of application for leave and order of the Court thereon and of the petition for divorce for service upon the respondents in the petition.

*801R. Service of copy of application for and order granting leave on the Respondents and procedure after service.*—(1) When the Court grants leave under the preceding rule a copy of the application for leave and order granting leave shall be served on each of the respondents along with the notice of the petition for divorce.

(2) (a) When the respondent desires to contest the petition for divorce on the ground that leave for filing the petition has been erroneously granted or improperly obtained he or she shall set forth in his or her written statement the grounds with particulars on which the grant of leave is sought to be contested.

(b) The Court, may, if it so deems fit, frame, try and decide the issue as to the propriety of the leave granted as a preliminary issue.

(c) The Court may, at the instance of either party order the attendance for examination or cross-examination of any deponent in the application for leave under the preceding rule.

#### Notes

The rules 801 Q and 801 R are meant to put into effect the provision of section 14 of the Act which reads as under :—

(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition three years have elapsed since the date of the marriage :

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before three years have elapsed since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but, if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the expiry of three years from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said three years upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this Section for leave to present a petition for divorce before the expiration of three years from the date of the marriage, the court shall have regard to the interest of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years.

80IS. *Taxation of costs.*—Unless otherwise directed by the Court, the costs of the petition under the Act shall be costs as taxed in a suit.

80IT. *Order as to costs.*—The award of costs shall be within the discretion of the Court.

80IU. *Transmission of certified copy of the decree.*—The Court shall send a certified copy of every decree for divorce or nullity or dissolution of marriage to the Registrar of marriage-in-charge of the Hindu Marriage Register.

Their lordships are further pleased to direct that a new Chapter XXXII-A be inserted after Chapter XXXII in the Rajasthan High Court Rules, concerning the above rules.

By Order,  
M. L. RAZDAN,  
*Registrar.*

# NOTIFICATIONS UNDER HINDU MARRIAGE ACT

*Published in Raj. Raj-patra Dated January 9, 1958 part IV (c) at page 887 :*

## LAW AND JUDICIAL (A) DEPARTMENT CORRIGENDUM

Jaipur, December 18, 1957.

*No. F. 19 (51) Judl./55.*—In this Department Notification of even number dated the 12th November, 1957 published at pages 733-736 of the Rajasthan Gazette Part IV-C dated the 12th December 1957, for the figures "1956" occurring in rule 1 of the Rajasthan Hindu Marriage Registration Rules, published under the said notification, read the figures "1957".

PRABHU DAYAL LOIWAL,  
*Secretary to the Government.*

*Notifications under*

**HINDU MARRIAGE ACT, 1955**

*Published in Raj. Raj-patra part IV (c) dated December 31, 1959 at page 1102*

English Translation

(Authorised by the Governor)

Law & Judicial (B) Department

**NOTIFICATION**

Jaipur, November 13, 1959.

*No. D. 3578/F. 1 (189) LJ/B/59.*—In exercise of the powers conferred by clause (b) of section 3 of the Hindu Marriage Act, 1955 (Central Act No. 25 of 1955), the State Government hereby specifies the Court of Civil Judge, Sambhar, within the Area of its territorial civil jurisdiction as the District Court having jurisdiction in respect of the matters dealt with in that Act.

By Order of the Governor,  
DEEWAN CHAND SHARMA,  
Secretary to the Government.



*Notifications under*

**HINDU MARRIAGE ACT, 1955.**

*Published in Raj. Raj-patra I (a) dated September 20, 1962 at Page 234 :*

**JUDICIAL DEPARTMENT  
NOTIFICATION**

*Jaipur. December 1, 1962.*

No F 26 (58) Jud./62.—In pursuance of clause (b) of section 3 of the Hindu Marriage Act, 1955 (Central Act 25 of 1955), the State Government hereby specifies the Court of Senior Civil Judge, Tonk for the area over which its Civil jurisdiction extends, as having jurisdiction in respect of matters dealt with in the said Act.

By Order,  
**LEHAR SINGH MEHTA,**  
Secretary to the Government.

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*Rules and Notifications under*

HOLDINGS (CONSOLIDATION AND PREVENTION OF  
FRAGMENTATION) ACT, 1954. THE RAJASTHAN  
( 24 OF 1954 )

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# RAJASTHAN HOLDINGS (Consolidation and Prevention of Fragmentations) Rules, 1955

Since the publication of the rules in Rajasthan Rules Compendium certain amendments have been enforced through various notifications. The amendments have been incorporated in the body of the rules and the notifications, through which the amendments were enforced, are appended with the rules so as to be useful for the purpose of ready-reference.

## Notes.

Section 44 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 authorises the State Government to make rules for carrying out the purposes of the Act. Without prejudice to the generality of this power, sub-section (2) of section 44 authorises the State Government to make rules providing for:—

(i) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules providing for—

(a) the manner of publication under sub-section (2) of section 4, sub-section (1) of section 14, sub-sections (1) and (2) of section 19, sub-section (4) of section 20 and sub-section (1) of section 21;

(b) the manner of giving public notice under sub-section (3) of section 5;

(c) the manner of giving notice under sub-section (2) of section 6;

(d) the procedure to be followed in the preparation of the scheme under sub-section (2) of section 14 with particular reference to the allotment of land to tenants, sub-tenants and landless tenants;

(e) the manner in which area is to be reserved under section 18 and the manner in which it is to be dealt with;

(f) the manner in which the compensation recoverable from any person under sub-section (3) of section 23 shall be deposited by him;

(g) the guidance of the consolidation officer in respect of the transfer of a lease, mortgage or other encumbrance under section 25;

(h) the manner in which the area and assessment of land revenue or rent (including water-rate if any) of each reconstituted holding shall be determined;

(i) the appointment of guardians *ad-litem* for minors;

(j) generally for the guidance of the consolidation officer and other officers and persons in all proceedings under this Act; and

(k) any other manner which is to be or may be prescribed.

These rules have, therefore, been framed for meeting the requirements of above matter in particular and generally for carrying out the purposes of the Act.

## REVENUE DEPARTMENT. NOTIFICATION

Jaipur, December 12, 1955.

No. F. 6 (286) Rev./B/55.—In exercise of the powers conferred by section 44 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Rajasthan Act XXVI of 1954); the Government of Rajasthan is pleased to make the following rules:—

1. *Title*.—These rules may be called the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1955;

*These rules have been first published in Rajasthan Raj-patra dated December 24, 1955 in part IV (c) at page 451:*

2. *Definition.*—In these rules—

(a) “Act” means the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954;

(b) ‘Form’ means a form appended to these rules;

(c) ‘Section’ means a section of the Act.

3. *Mode of publication.*—Any matter required to be published or of which public notice is to be given, under the Act, shall be published by exhibiting copies thereof in the village or villages concerned in Hindi and shall also, so far as possible, be announced in such village or villages by beat of drum.

*Notes*

The different sections of the Act require the State Government to prescribe the manner of publishing different notifications and notices required under the Act. Section 4 (2) requires the publication of notification for the settlement of standard area. Section 5 (3) requires the public notice for the standard area determined under the provisions of the Act. Sections 14 (1), 19 (1) and (2), 20 (4) and 21 (1) require the publication for declaration to make scheme for consolidation, draft an amended scheme, confirmed scheme and demarcated map after repartition respectively. This rule prescribes the mode of publication as required under the aforesaid provisions of the Act.

3A. *Notice to Custodian of Evacuee Property.* The Consolidation Officer shall also serve on the Regional Settlement Commissioner-cum-Custodian of Evacuee Property a notice of the intention to make a scheme under sub-section (2) of section 14.

4. *Formation of Village Advisory Committee.*—After the notification and publication of intention to make a scheme under sub-section (4) of section 14 [and the service of a notice under rule 3A] the Consolidation Officer shall visit each of the village concerned after giving a reasonable notice of his visit to the land holders and tenants thereof [and to the Regional Settlement Commissioner-cum-Custodian of Evacuee Property] and form a Village Advisory Committee consisting of persons not less than five specially chosen by him for the purpose from among the land-holders and tenants concerned and after having considered the views of the aforesaid Advisory Committee shall prepare a scheme for the consolidation of Holding of the village.

*Notes*

The above rule stands substituted in place of previous one vide Revenue Department Notification No. F. 6 (286) Rev./A/55 dated 30-8-57 published in Rajasthan Rajpatra, part IV (c) dated 19-9-57.

This rule has been made for putting into effect the requirements of sub-section (2) of section 14 of the Act which provides that—

(2) On such publication in the area concerned, the State Government may appoint a consolidation officer, who shall, after consulting in the prescribed manner the land holders and tenants in such area, prepare a scheme for the consolidation of holdings in such area or any part thereof:

Provided that if the land owner making the application under sub-section (1) submit a scheme of consolidation of holdings mutually agreed to, the consolidation officer shall, in the manner prescribed, examine it and if necessary modify it.

5. *Contents of Scheme*—(1) Every such scheme of consolidation shall contain the following particulars—

(i) a statement of classification of land for the purpose of consolidation and the exchange ratio for conversion of one class into another;

(ii) a statement of valuation of lands, wells, trees, etc. to be exchanged showing compensation to be given to or received by the holders concerned;

(iii) a brief statement as to the action, if any taken in pursuance of sections 17 and 18 of the Act; and

(iv) such other particulars as may be considered expedient by the Settlement Officer (Consolidation) in this behalf.

(2) In preparing such scheme the Consolidation Officer shall, in respect of unallotted evacuee land, take into consideration, as far as possible, the original classification of soil and shall make separate blocks of such land, chahi, barani, bhud etc. in the locality in which the major portion of evacuee land originally existed.

#### Notes

Sub-section (2) of section 14 of the Act requires the preparation of scheme for consolidation in the prescribed manner. This rule prescribes the particulars which shall be included in every such scheme.

Clause (iii) of this Rule requires that the scheme shall contain the particulars of any action taken under section 17 and 18 of the Act. Section 17 empowers the Consolidation Officer to amalgamate or transfer, when necessary, the public road, street, lane, path, channel, drain or tank in any scheme of consolidation. Section 18 of the Act authorises the Consolidation Officer to direct:—

(a) that any land specifically assined for any common purposes shall cease to be so assigned and any other land shall be assigned in its place;

(b) that any land under the bed of a stream or torrent shall be assigned for any common purpose.

(c) than if in any area under consolidation no land is reserved for any common purpose, including extension of the village abadi or if the land so reserved is inadequate, other land shall be assigned for such purpose;

Provided that the consolidation officer shall order for assignment of adequate land for common grazing ground.

6. (1) *Draft Scheme of consolidation to be explained to the persons effected thereby.*—In addition to publication under the provisions of rule 4 the draft scheme of consolidation shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose. If any [land holder or tenant] desires to have a copy of the proposed consolidation scheme, it may be supplied to him or her, as the case may be, on payment of the prescribed fee.

(2) A copy of the proposed consolidation scheme shall be sent to the Regional Settlement Commissioner-cum-Custodian of Evacuee Property free of charge for his information and for sending such representative to which his interest, as he may consider necessary.

7. *Examination of scheme submitted by [land holder].*—(1) Where the land holders have applied for consolidation of their holdings and have themselves submitted a scheme therefor mutually agreed to, the Consolidation Officer shall examine the scheme in order to ascertain whether—

- (a) classification and valuation of lands and assessment of compensation payable for trees, wells, buildings etc. have been made correctly;
- (b) due provision has been made with regard to the holding of each land-holder for transfer of his incumbrances and sub-tenants having tenure right on the lands of their sub-tenancy;
- (c) repartition of land has been made according to an equitable valuation of lands and whether lands of an equal value as possible have been proposed to be given in exchange for the lands taken away from each land-holder;
- (d) the interest of all minors, widows and absentees have been duly safe-guarded; and
- (e) in the case of unallotted evacuee land, the original soil classification has, as far as possible, been taken into consideration and separate blocks of such land have been made as specified in sub-rule (2) of rule 5.

(2) After examining the scheme under sub-rule (1) the Consolidation Officer shall get prepared a brief statement of the main features of the scheme and maps showing separately the disposal of lands under the existing and the proposed holdings of each land holder and shall get them published in the village and call upon all land-holders to submit their objections thereto, if any, within one month from the date of publication thereof.

(2A) A copy of the statement prepared under sub-rule (2) shall be sent to the Regional Settlement Commissioner-cum-Custodian of Evacuee Property of his information and for preferring such objections as he may consider necessary within a period of one month of the receipt by him of such copy.

(3) If no objections are received and the Consolidation Officer finds the scheme to be in order under sub rule (1) he shall sanction the scheme and order mutation of lands and preparation of new records of rights accordingly.

(4) Where any land holder or land holders [and to the Regional Settlement Commissioner-cum-Custodian of Evacuee Property]

submit objections to the scheme published under sub-rule (2) [or the Regional Settlement Commissioner-cum-Custodian of Evacuee Property objects thereto under sub-rule (2A)] the Consolidation officer shall visit the village, after giving reasonable notice of his visit to the land holders [and the representative of the Regional Settlement Commissioner-cum-Custodian of Evacuee Property, if nominated] and hold a meeting of all the landholders, hear the objections received and, after such local inspection of fields as he may deem necessary, re-examine the scheme in the light of the objections heard, and may modify it as he may deem proper.

(5) The modified scheme shall be read over to the land-holders present [and a copy of the same shall be sent to the Regional Settlement Commissioner-cum-Custodian of Evacuee Property] If 75% of them agree to it he shall sanction it forthwith, otherwise he shall submit the modified scheme with his own remarks to the Settlement Officer (Consolidation).

8. *Repartition.*—The Consolidation Officer shall, after obtaining the advice of the [land holders] of the village or villages concerned [and the Regional Settlement Commissioner-cum-Custodian of Evacuee Property or his representative, if any] carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 20 and shall prepare the following repartition papers:—

(i) a map of the village showing all the existing field numbers, recognised roads, and irrigation channels and area assigned for public purposes such as burial grounds, grounds for disposal of annual carcasses, ponds or grazing areas, and such other places of public use from time to time prescribed by the Government or the Director of Colonisation or the Collector with new field numbers superimposed, upon it in red lines or other markings;

(ii) another similar village map exhibiting the position emerging as a result of repartition;

(iii) a statement showing the names of the [landholders] of holdings with particulars of field numbers, shares class of land, tenure, areas, assessment and encumbrances, if any, after getting the record of rights up to date;

(iv) a statement showing the names of [landholders] with particulars of all different rights possessed by each individual;

(v) a statement showing the Compensation payable by or to a [landholder or tenant] in order to adjust difference in value of land exchanged under section 15 or due to the existence of wells, trees etc. under sub-section (4) of section 17;

he (vi) a statement showing the names of occupants of  
rs to whom the new consolidated holdings are allotted

with particulars of field number, shares class of land, tenure area, assessment and incumbances, if any, and

(vii) such other papers as may be considered expedient by the Settlement Officer (Consolidation) in this behalf.

*Notes.*

Section 20 of the Act requires the Settlement Officers (Consolidation) to confirm the scheme, submitted by the consolidation Officer after inviting and deciding the objections, if any. Sub-section (1) of section 21 requires:—

(1) The consolidation officer shall, after consulting the land holders and tenants in the area concerned, carry out repartition of holdings in accordance with the scheme of consolidation of holdings confirmed under section 20; and the boundaries of the holdings as demarcated shall be shown on the Map which shall be published in the prescribed manner in the area concerned.

The rule prescribes the preparation of re-partition papers after confirmation of the scheme.

9. *Repartition papers to be explained to the persons effected thereby.*—The contents of the statements mentioned in item (iv) to (vii) of the rule 8 shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose and a copy of such statement shall be sent to the Regional Settlement Commissioner-cum-Custodian of Evacuee Property.

10. *Re-distribution of assessment.*—After repartition has been confirmed and the appeal against it, if any, has been finally decided, the Collector of the district, shall take necessary steps for the re-distribution of the assessment of the estate concerned, in accordance with the provisions of the Land Revenue Laws in force in the area.

11. *Eviction.*—The Consolidation Officer shall serve a notice on the person or persons liable to eviction under sub-section (2) of section 23, requiring him within fifteen days of the receipt of the notice to vacate the land. If such notice is not complied with within the time specified therein, the Consolidation Officer may exercise the powers of a Revenue Officer under the Revenue Law in force in the area, for the purpose of putting in physical possession of the holding the person entitled thereto.

*Notes.*

Sub-section (1) of section 23 of the Act confers right to possession of new holdings by the land holders and tenants affected by the scheme of consolidation. The order for the possession of new holdings in accordance with the consolidation scheme is to be enforced as a decree for possession vide sub-section (2) of section 23 which provides that:—

(2) If such land holders and tenants do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings allotted to them from the first day of May next, following the date of the publication of the scheme under sub-section (4) of section 20 or, as the case may be, of the preparation of the new record of rights under section 22 and the consolidation officer shall, if necessary, put them in physical possession of the holdings to which they are so entitled including standing crops, and for doing so may enforce the order as a decree for possession.



12. *Compensation for standing crops.*—(1) In fixing the compensation payable by the person put in possession of any land under sub-section (3) of section 23 of the Act for crops standing on the land, the Consolidation Officer shall observe the following principles:—

(a) If both the parties agree between themselves with regard to the amount of compensation to be paid the compensation agreed to shall be awarded.

(b) If the parties fail to come to an agreement the Consolidation Officer shall appoint a board of arbitrators of three persons one to be nominated by each of the parties and the third to be appointed by the Consolidation Officer, and the award for compensation given by the said board or majority thereof after local inspection of the crops, shall be final and binding on both the parties. In giving the award the board arbitrators shall take into consideration the cost of the seed used and the labour put in on sowing operations and subsequent agricultural operations upto the date of the award, the cost of further labour and other incidental charges reasonably expected to be incurred on the crop upto the time the crop is ripe and is harvested and the total yield and income expected to be derived from the crop on its maturity.

(2) In giving effect to an award for compensation under this the Consolidation Officer shall fix a target date by which the land shall be vacated by the person in possession of the land at the time of award and given possession of to the allottee and shall direct that in case the land is not so vacated and given possession of by the target date fixed under this rule and if new crops are sown on the land after harvesting the crops for which an award has been given the new allottee shall be entitled to get possession of the land without payment of any compensation for either of the crops.

#### *Notes.*

This rule is meant to put into effect the provisions of sub-section (2) and (3) of section 23 of the Act which read as under:—

(2) If such land holders and tenants do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings allotted to them from the first day of May next, following the date of the publication of the scheme under sub-section (4) of section 20 or, as the case may be, of the preparation of the new record or rights under section 22 and the consolidation officer shall, if necessary, put them in physical possession of the holdings to which they are so entitled including crops, and for doing so may enforce the order as a decree for possession.

(3) If there are standing crops on any holdings of which possession has been given under sub-section (2), the consolidation officer shall determine in the prescribed manner the compensation payable in respect of such crops by the person put in possession, who shall, within six months of the date of possession, pay such compensation to the person or persons from whom possession was transferred: and, in case of default, such compensation shall be recovered from him as an arrear of land revenue.

13. *Deposit of Compensation.*—The amount of compensation payable by [a landholder] under section 15 shall be deposited by him in the nearest Government treasury or sub-treasury under such head as the Government in the (Finance Department) may from time to time prescribe for the purpose and a copy of the receipt obtained by him in token of credit shall be produced by him before the Consolidation Officer.

#### Notes.

Section 15 of the Act reading as under provides for assessment and payment of compensation where a person in consequence of the consolidation scheme gets a holding of lesser market value than the market value of his original holding: This rule prescribes the manner in which the amount of such compensation shall be deposited.

(1) The scheme prepared by the consolidation officer shall provide for the payment of compensation to any person who is allotted a holding which is of less market value than his original holding and for the recovery of compensation from any person who is allotted a holding which is of greater market value than his original holding.

(2) The amount of compensation shall be assessed by the consolidation officer, so far as practicable, in accordance with the provisions of the Rajasthan Land Acquisition Act, 1953.

14. *Transfer of incumbrance.*—In transferring a lease, mortgage, debt or other encumbrance under sub-section (1) of section 25 the Consolidation Officer shall—

(i) If the new holding is of the same market value as the original one, transfer to the new holding the entire encumbrance attaching to the original;

(ii) if the new holding is of a substantially greater market value than the original one, transfer to the new holding the encumbrance attaching to the original, subject, in case of a lease, to the [land-holder] paying such reasonable rent in excess of the rent already payable under the lease as may be fixed by the Consolidation Officer and, in the case of any other encumbrance, subject to such reasonable reduction in the area or in the ration of interest as may be fixed by the Consolidation Officer having regard to the substantially better security provided by the [land-holder] of the new holding.

15. *Putting the encumbrancer in possession*—If the leasee, mortgagee or other encumbrancer appears to the Consolidation Officer to be entitled to possession of holding under section 25 the Consolidation Officer shall issue a notice to the [land holder] to show cause within fifteen days of the receipt of the notice why, if leasee, mortgagee or other encumbrancer, as the case may be, fails not be put in possession of such holding. If the [land-holder] fails

to show cause or if the Consolidation Officer is satisfied that the cause shown by the [land-holder] is not adequate, he shall put the leasee, mortgagee or other encumbrancer, as the case may be, into possession of the holding, and the record of rights in respect of the holding shall be corrected accordingly.

### Notes

The rules 14 and 15 are meant to meet the requirements of section 25 of the Act which reads as under:—

(1) If any holding brought under the scheme of consolidation is burdened with any lease, mortgage, or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding allotted under the scheme, to the land holder or tenant, as the case may be, of the first-mentioned holding or to such part thereof as the consolidation officer, subject to any rules that may be made under section 44, may have determined in preparing the scheme, and thereupon, the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the holding from which the lease, mortgage or other encumbrance has been transferred.

(-) If the holding to which a lease, mortgage or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall subject to the provisions of section 32 be entitled to the payment of such compensation by the land holder or tenant, as the case may be, of the holding as the consolidation officer may determine.

(3) Notwithstanding anything contained in section 23 the consolidation officer shall, if necessary, put any lessee or any mortgagee or other encumbrancer, entitled to possession in possession of the holding or part of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

16. *Assessment, Collection, refund etc. of the cost of Consolidation.*—(1) The cost of Consolidation proceeding shall be assessed at Rs. 4/- per [occupied] acre or portion of an acre if the Wattbandi (Battbandi) is carried out by the persons whose holdings are affected and at Rs. 6/8/-per acre if the Wattbandi is carried out by or in behalf of the Consolidation Officer, at the option or default of the persons whose holdings are affected.

(2) The cost of consolidation shall be payable by the persons whose holdings are affected by the scheme of Consolidation, except that in case of evacuee land, it shall be payable by an allottee in respect of land which has been allotted to him on a quasi permanent basis and the Custodian of Evacuee Property in the case of unallotted evacuee lands.

(3) The cost of consolidation shall be collected in two yearly instalments along with the land revenue demand for kharif and

rabi harvests. Immediately after the confirmation of the scheme under section 20, the Patwari will prepare in form C. H. 1 a list of assessees from whom the cost of the Consolidation is to be recovered. This list will be arranged Thok, Patti, or Patel or Numberdar wise, as the case may be, and alphabetically.

(4) All entries in the list mentioned in sub-rule (3) above shall be checked by the Girdawar Kanungo and read over and explained to the persons, whose holdings are affected by the scheme of Consolidation. The Assistant Consolidation Officer shall check the entries in the list, and the list duly signed on every page by the Patwari, Girdawar Kanungo and the Assistant Consolidation Officer in token of its correctness shall be forwarded to the Consolidation Officer, who after counter-signing it, shall forward an authenticated copy thereof to the Revenue Tehsildar. The Revenue Tehsildar shall after the Wasil Baqi Nawis has noted the consolidated demand in a register in form C. H. 2 maintained specially for the purpose, forward it to the village Patwari for collection.

(5) Before the second instalment falls due, the village Patwari shall immediately after the preparation of preliminary record of the village draw up the list of second instalments of cost of consolidation incorporating the changes, if any, in the first list of the cost of consolidation payable by the persons whose holdings are affected by the scheme of consolidation. This list shall be prepared, checked and authenticated and disposed of in the manner laid down in sub-rule (4).

(6) The excess cost of consolidation recovered from a person whose holding are affected by the scheme of consolidation shall be refunded under orders of the Settlement Officer (Consolidation) to whom an application may be made for the purpose, through the Patwari of the village, who shall forward it through the proper channel after verification and report. The refund certificate shall be prepared in the office of the Settlement Officer and sent to the applicant through registered post and the applicant shall obtain the refund on basis of this certificate by applying to the competent revenue authority authorised to sanction refunds.

(7) The demand on account of the cost of consolidation shall become due as soon as the list in the hands of the village Patwaries or other persons entrusted with the collection of land revenue and must be paid into the treasury not later than the dates fixed for payment of first instalment of the land revenue of the year. After the expiry of that date processes may be issued for recovery of arrears in the same way as for arrears of land revenue.

(8) The allowance of Lambardars or other persons collecting the cost of consolidation shall be two percent of the amount collected, unless otherwise expressly ordered by the State Government. The allowance will be conditional on the demand being paid in full for each estate by the date fixed in sub-rule 7. The Collector of the district may retrench any such out of the allowance for delay in payment of the demand into treasury.

(9) A monthly return in form C.H. 2 appended hereto shall be forwarded by the Collector to the Commissioner of the division with a copy of it to the Director of Consolidation of Holdings or where no such officer has been appointed to the Officer-in-charge of the Consolidation operations in the area by seventh of the month following that to which it relates. In this return shall be entered the demand for the harvest, arrears (if any) and payment received during the month.

#### Notes

This rule has been framed in exercise of the powers conferred under section 27 of the Act. Section provides that :—

(1) The cost of consolidation proceedings shall be assessed in the prescribed manner.

(2) The consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation.

17. *Appointment of guardians to minors.*—Where any of the [land holders] is a minor the Consolidation Officer may, after making such enquiries as may be necessary and by an order in writing, appoint a suitable person whose interest is not adverse to that of the minor as his guardian *ad-litem* for the purpose of consolidation proceedings.

18. *Representation of widows, soldiers or absentees by agents or attorneys.*—Widows, soldiers or persons who are not present in the village may be represented in consolidation proceeding by their authorised agents or attorneys.

## Notes

This rule has been newly added through Revenue Department amending Notification No. F. 6 (286) Rev./B/55 dated 17/1/58 published in Rajasthan Rajpatra, part IV (c) dated 6/2/58.

By Order of  
His Highness the Rajpramukh,  
P. N. KAUL,  
*Secretary to the Government.*

## FORM C.H. 1.

Recovery list of Consolidation costs of village....      ....  
Tehsil....      District....      ....      ....

S. No.	Name of persons whose holdings are affected	No. of Khewats or Dalbanch.	Area on which consolidation fee has been assessed in acres	Rates of consolidation fee has been assessed in acres	Demand	Remark
1	2	3	4	5	6	7

## Notes

- (i) Column Nos. 2 and 4 :—Names are persons whose holdings are affected percentage and caste with details of right (Jagirdars, Proprietors Occupancy Tenants, Khatedars etc.) area should be entered according to the latest Jamabandi of the village.
- (ii) Column No. 3:—No. of Khewats and Khataunies or Dalbanch should be written in respect of each person whose holdings are affected and has interest in them.
- (iii) Column No. 5:—Rate of Consolidation fee per acre should be entered.
- (iv) Column No. 6:—The demand of consolidation fee due from the persons whose holdings are effected should be entered in this column.
- (v) Column No. 7:—In case there is any change under the orders of mutation etc. after the preparation of the list, a mention should be made in the remarks column.

## FORM C.H. 2.

Statement showing the Consolidation fee realised in the... ..  
 District during the month of .. ... ..19

Demands	Collections and Balance	Balance out standing at the end of past year.			Rabi. 19			Kharif, 19		
		Rs.	AS.	PS.	Rs.	AS.	PS.	Rs.	AS.	PS.

Balance of former demands.

Add Demands received during the month.

Total .. ... ..

Subtract remission authorised by the Consolidation Department.

.. ... ..

Realisation during the month

Balance of demands remaining for realisation.

*Details of balance of past year.*

Harvest

Amount  
Rs. AS. PS.

Balance of last a/o	Since authorised by Settlement Officer, Consolidation of Holding	Total	Paid during the month	Fees to Lamberdars	
				Retrenched by Settlement Officer. Collector.	Total Balance

Dated 19

From Collector.... ..

To the Commissioner, Division

The Director, Consolidation of Holding.

No.

Dated

Sd-

Secretary to the Government of  
Rajasthan in Revenue Department.

*Notifications under*

**RAJ. HOLDINGS (CONSOLIDATION & PREVENTION OF  
FRAGMENTATION) ACT, 1954**

*Published in Raj. Raj-patra Dated May 14, 1955 part I (b) at page 102 to 106 :  
Jaipur, April 20, 1955.*

*No. D. 3445/F. 22 (5) Rev. A/55.*—In pursuance of section 42 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954, (Rajasthan Act XXIV of 1954), the Government of Rajasthan is hereby pleased to delegate to the Director of Colonisation, Hanumangarh, the powers of the Government under sub-section (4) of section 17 and section 37 of the aforesaid Act, subject to the condition that the Government may also, exercise the powers under the aforesaid provisions in such cases as the Government may deem suitable.

*Jaipur, April 20, 1955.*

*No. D. 3445/F. 22 (5) Rev. A/55.*—In pursuance of sub-section (3) of section 1 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954, (Act No. XXIV of 1954) the Government of Rajasthan is pleased to order that Chapters II, III and IV of that Act shall come into force in the area of Ganganagar district consisting of the villages mentioned in schedule with effect from the date of publication of this notification in the Rajasthan Gazette.

The Government of Rajasthan is after an enquiry through the Director of Colonisation, Hanumangarh further pleased to declare the said area as a "notified area" for the purposes of section 3 of the aforesaid Act.

By Order of  
His Highness the Rajpramukh,  
**R. N. SHUKLA,**  
Dy. Secretary to the Government.

<b>SCHEDULE</b>	10. Gurusar.	24. Maga Regarwala.
<i>Revenue Tehsil</i>	11. Gurusahaimalwala	25. Munda.
<i>Hanumangarh</i>	12. Gadhoil.	26. Mank Tibi.
1. Bakshiwal.	13. Gudia.	27. Nanwa.
2. Bas Naharsingh- wala.	14. Gilwala.	28. Padampur.
3. Birgh. Bechi- ragh.	15. Jambharwala.	29. Pirkamariya.
4. Bashir.	16. Jambhar Barni.	30. Pauniwali.
5. Chandurwali.	17. Jalalabad.	31. Ratanpura.
6. Daulatpura.	18. Mohla.	32. Roranwali.
7. Fatehgarh.	19. Khara Khera.	33. Ramsara Narain
8. Fatehpur Rohi.	20. Kulchandra.	34. Sherekani.
9. Fatehpur Nali.	21. Kotbiwala.	35. Salimgarh.
	22. Kikarwala.	36. Sabuana.
	23. Khunja.	37. Saharni.



38. Surewala	35. Silwala Khurd.	131. Takht Hazara.
39. Sarmukhwala.	36. Silwala Kulan.	132. Bhagatpura.
40. Udaiwala,	37. Silnathwala.	133. Chapanwali.
41. Chandra.	38. Talwara Kalan.	134. Dhaban.
42. Malarkhera.	39. Baswasinghwala.	135. Dholipal
43. Manaksar.	40. Alipura.	136. Cilanwali.
44. Muradwala.	41. Amarpura July.	137. Kikarwali.
45. Makasar Barani	42. Amargarh.	138. Lilanwali.
46. Nagrana.	43. Bhakranwali.	139. Kalpura.
47. Rampura. Beohiragh	44. Bolanwali.	140. Morjand Khari.
48. Saliwali.	45. Buglanwali.	141. Manuka.
49. Shergarh.	46. Behrampur.	142. Nathwana,
50. Tibi.	47. Chak Dbola.	143. Padampura.
51. Araiyanwali.	48. Dinglitaaniya.	144. Sunderpura.
52. Birwala A.	49. Dholnagar.	145. Bahlolnagar.
53. Berwala	50. Dingarh.	146. Bhanewala.
54. Birwalab.	51. Gadarkhera.	147. Chak Hariram- wala.
55. Chetnathwale.	52. Hathiyawala.	148. Chak Jabana.
56. Chhogmalwala.	53. Haripura.	149. Dablibas Chugta.
57. Dabarwala.	54. Hirasinghwala.	150. Babilbas Shamlat.
58. Derewala.	55. Inderpura.	151. Fattuwalla.
59. Fatehwala.	56. Indergarh.	152. Karnisar.
60. Fazaldinwala.	57. Jandawala.	153. Kutub Barani.
61. Samne.ki-Tail.	58. Kheruwala.	154. Midanali.
62. Gurusarwala.	59. Kararwala.	155. Mohansinghwala.
63. Harnarainwala.	60. Khatsajwar.	156. Maulviwala.
64. Harisinghwala.	61. Kishangarh alias Chamarkhera.	157. Pema Oali.
65. Hamirkhanwala.	62. Kishanpura	158. Shajipura.
66. Imambaxwala.	63. Utrada.	159. Sedhuwala.
67. Jwalasinghwala.	64. Lambi Dhab.	160. Tailwala.
68. Janglat Hanu- mangarh.	65. Manniwali.	161. Chistiyan.
69. Kothiwal.	66. Morjahd Sikhan.	162. Dablibas Paima Rohi.
70. Kamrani.	67. Malarampura.	163. Fatehmohammad.
71. Khudaiwala	68. Matili Sarnan.	164. Jandawali.
72. Kishanpura.	69. Matili Khichran.	165. Mida Rohi.
73. Maulviwala.	70. Nukera.	166. Sardara.
74. Masani.	71. Nurpura.	167. Dabli Bas Chain.
75. Mannathwala.	72. Naraingarh.	168. Dabli Bas Karim.
76. Meharsinghwala	73. Phuldesar.	169. Jorkiyan.
77. Nanuwala.	74. Patli.	170. Heeranwali.
78. Nizamwala,	75. Partapnagar.	171. Pucca Sarnan.
79. Premwala.	76. Partappura.	172. Pucca Bhadwan.
80. Rattakhera.	77. Rasuwala.	173. Banwala.
81. Rathi Khera.	78. Santpura.	174. Uttamsinghwala.
82. Dain taraf-ki-Tail	79. Shahpini.	175. Khananiyan.
83. Sarmukhwala.	80. Singhpura.	176. Sheodanpura.
84. Saresia.	81. Chasksonewala.	

177. Kishanpura	40. Sheopura.	34. Govindgarh.
Bechiragh.	41. Sherpura.	35. Umewala.
178. Sangaria.	42. Sikrori.	36. Kanewala.
<i>Tehsil Bhadra</i>	43. Udran.	37. Amarpura Jatan.
1. Amarpura Sardar-	44. Amarpura.	38. Bhagwansar.
pura Bas Bhola.	45. Babalwas.	39. Bhagsar Khurd.
2. Bari Chhani.	46. Gangasinghpura.	40. Bhagibander.
3. Beharipura.	47. Nangal.	41. Bhaironpura.
4. Ber.	48. Ratanpura.	42. Chak Karnisar.
5. Bhadra	49. Karanpura.	43. Chak Bhagwan-
6. Bhairon Chhani.	50. Sahuwala.	sar.
7. Bharwana.	<i>Tehsil Suratgarh.</i>	44. Dhirdesar.
8. Bhojasar.	1. Ahmadpura.	45. Gurusar Modia.
9. Biran.	2. Barekan.	46. Ghamandia.
10 Chak Bhojasar.	3. Bir Dulmani.	47. Hardavlpura.
11. Chak Chirya	4. Bir Suratgarh.	48. Jorkiyan.
Gandhi.	5. Dulmana.	49. Karnisar.
12. Chirya Gandhi.	6. Dulmani.	50. Karnisar Utrada.
13. Dholpaliya.	7. Deengwala.	51. Kanpura.
14. Dobi.	8. Lakhuwali.	52. Kothanwali.
15. Dunganwas.	9. Kalibangan.	53. Lalpura.
16. Garhi Chhani.	10. Ludhana.	54. Manaksar.
17. Gandhi Bari.	11. Nihalpura.	55. Mohamadabad.
18. Ganeshpura.	12. Pilibangan.	56. Prempura.
19. Hathipura.	13. Suratgarh.	57. Ramsara Jakhran.
20. Janana.	14. Rampura.	58. Suranwali.
21. Jhausal.	15. Rampura Chak	59. Sahuwala.
22. Johrarpura.	Nali.	60. Singhpura.
23. Jogiwala.	16. Rangmabal.	61. Sanghar.
24. Khachwana.	17. Sriramsar.	62. Shivpura.
25. Lakhanwas.	18. Baropal	63. Sardargarh.
26. Malkhera.	19. Bhagwargarh.	64. Sidhuwala.
27. Mehrana.	20. Bilochiyanwala.	65. Sadasinghwala.
28. Motipura.	21. Dhaban.	66. Amarpura Rathana.
29. Munsari.	22. Hansaliya.	<i>Tehsil Nohar.</i>
30. Ninan.	23. Kharliyan.	1. Barwali.
31. Nithrana.	24. Lakhasar.	2. Bhirani.
32. Patwa.	25. Longwala.	3. Bhukarka.
33. Rajpura.	26. Manaktheri.	4. Charanwasi.
34. Rangariya.	27. Sardarpura Bikan	5. Diplana.
35. Sagra.	28. Thirajwala	6. Dandela.
36. Sardargaria.	29. Lakhmisar.	7. Dhani Araiyan.
37. Sardarpura Bass	30. Ayalki.	8. Dhani Lalkhan.
Bhadra.	31. Goluwala Nava-	9. Gogameri.
38. Sardarpura Bas	ghan.	10. Gudia.
Chiraya Gandhi.	32. Goluwala Siyagan.	11. Jananiya.
39. Sawai Chhani.	33. Rampura Sidhwan	12. Jasana.

13. Karoti.	waniya.	11. Fatehsinghwala.
14. Malwani	31. Lalana Bas	12. Hakamabad.
15. Nohar.	Sheopura.	13. Lalgargh.
16. Padampura.	32. Lalana Bas	14. Shyamsinghwala.
17. Parlika.	Utrada.	15. Jamiyatsinghwala
18. Phephana.	33. Ujjalbas.	16. Chak Kera.
19. Pichkarai.	<i>Tehsil Ganganagar.</i>	17. Mamarkhera.
20. Rajpuriya.	1. Banwala.	18. Panniwali.
21. Ramgarh.	2. Budherwali.	19. Dungarsinghpura.
22. Ramsara.	3. Bhagsar.	20. Jogiwala.
23. Ratanpura.	4. Chak Bhagsar.	21. Rotanwali.
24. Sotibari.	5. Chak Dulrasar.	22. Sardarpura.
25. Sotiparihari.	6. Chak Dharamsinghwala.	23. Ganeshgarh.
26. Suratpura.	7. Chak Kikarwala.	24. Takhranwali.
27. Bar Biran.	8. Dalianwali.	<i>Tehsil Padampur.</i>
28. Dhilki Chaylan.	9. Dalrasar.	1. Narsinghpura.
29. Dhilki Jatan.	10. Duda Khichar.	<i>Tehsil Anupgarh.</i>
30. Lalanabas Nath-		1. Daulatabad.

*Published in Raj. Raj-patra Dated May 21, 1955 part 1 (b) at page 131 to 135 :  
Jaipur, April 20, 1955*

No. 1). 3445/22 (5) Rev./1/55.—In exercise of the powers conferred by clauses (a) , (b) and (k) of section 2 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Rajasthan Act XXIV of 1954) the Government of Rajasthan is pleased to authorise the Officers of the Colonisation Department mentioned below in column 1 to perform and exercise in the areas of their respective jurisdiction, as defined in the Schedule hereto, all the functions and powers under the aforesaid Act of officers mentioned in column 2 to the extent mentioned in corresponding entry in column 3 below against each officer respectively:—

Designation of officer. 1	Authorised to exercise functions of 2	Extent to which authorised 3
1. Director	-(a) Collector	All functions under chapter 11 of the aforesaid Act.
2. Deputy Directors	Settlement Officer (Consolidation)	All functions under the aforesaid Act.
3 Tehsildars	Consolidation Officers	-do-
4. Naib Tehsildars	-do-	(a) power to authorise under section 38 of the aforesaid Act any Government servant to enter upon any survey lands, erect survey marks thereon and demarcate the boundary thereof, and do all acts necessary for the proper

" performance of any function or duty under the aforesaid Act or rules framed thereunder.

(b) Power to impose penalties for destruction or removal of survey marks u/s 39 of the aforesaid Act.

(c) Power to summon person under section 41 of the aforesaid Act.

(d) Power to form Advisory Committee and appoint guardians to minors under rules framed under the aforesaid Act.

By Order of  
His Highness the Rajpramukh,  
R N. SHUKLA,

Dy. Secretary to the Government.

### SCHEDULE.

Statement defining area of jurisdiction of various Officers of the Colonisation Department at Hanumangarh.

Designation of Officer.	List of villages over which he will have jurisdiction.	
1	2	
Tehsildar Colonisation Hanuman-garh.	1. Puca Sarnan. 2. Dabli Bas Fateh Mohammed Patti Sarnan. 3. Jandanwali. 4. Dabli Bas Paima. 5. Hiranwali. 6. Chistian. 7. Jorkian. 8. Khunjan Barani. 9. Dabli Bas Chaina. 10. Dabli Bas Karim. 11. Dabli Bas Fateh Mohammed Patti Abdul Rehman. 12. Dabli Bas Chugatta 13. Tailwala. 14. Chak Jahana. 15. Chak Hariram-wala.	16. Dabli Bas Sardara. 17. Dabli Bas Midha Rohi. 18. Chak Bhaneywala. 19. Dabli Bas Fatehwala. 20. Dabli Bas Kutub. 21. Naharsinghwala. 22. Maulviwala. 23. Paima Nali. 24. Midha Nali. 25. Makasar Barani. 26. Kothiwal. 27. Sarmukhwala. 28. Chak Kikarwala. 29. Nehal Nagar. 30. Chak Seduwala. 31. Sahjipura. 32. Karnisar. 33. Fatehgarh. 34. Aryaianwali. 35. Kishanpura Dikhanada. 36. Chak Nehri Munda.

- |  |                              |
|--|------------------------------|
| 37. Kohla.   | 81. Padampura.               |
| 38. Ramsaranarain.                                   | 82. Ghadoi.                  |
| 39. Gangagarh R.<br>hand Tail.                       | 83. Kishanpura<br>Bechiragh. |
| 40. Front Tail.                                      | 84. Salimgarh.               |
| 41. Meharsinghwala.                                  | 85. Jalalabad.               |
| 42. Berwala alias<br>Srinagar.                       | 86. Silwala Khurd.           |
| 43. Derewala.  | 87. Chak Nehri<br>Meharwala. |
| 44. Chetnathwala.                                    | 88. Silwala Kalan.           |
| 45. Magha Raigarwala                                 | 89. Berwala.                 |
| 46. Chhogmalwala.                                    | 90. Talwara.                 |
| 47. Hamirkhan wala.<br>alias Hanumangarh<br>Junglat. | 91. Ratti Khera.             |
| 48. Saresia Barani.                                  | 92. Tibi.                    |
| 49. Birwala Khunja.                                  | 93. Ratta khera.             |
| 50. Dabarwala.                                       | 94. Birgah Bechiragh.        |
| 51. Fatehwala.                                       | 1. Rampura Sidwan.           |
| 52. Fazaldinwala.                                    | 2. Govindgarh.               |
| 53. Jwalasinghwala.                                  | 3. Kanewala.                 |
| 54. Imambux wala.                                    | 4. Goluwala Nawada<br>North. |
| 55. Baswasingshwala.                                 | 5. Umewala.                  |
| 56. Nanuwala.  | 6. Goluwala Nawada<br>South. |
| 57. Premwala.  | 7. Goluwala Siyana.          |
| 58. Harisinghwala.                                   | 8. Chamarkhera.              |
| 59. Sarmukhsinghwala                                 | 9. Takht Hazara.             |
| 60. Fatehpur Rohi.                                   | 10. Patli.                   |
| 61. Fatehpur Nali.                                   | 11. Gadarkhera.              |
| 62. Muradwala.                                       | 12. Alipura.                 |
| 63. Kothiwal Dhalia                                  | 13. Noorpura.                |
| 64. Nizamwala.                                       | 14. Dhingtania.              |
| 65. Daulatpura.                                      | 15. Kararwala.               |
| 66. Pir Kamaria.                                     | 16. Amargarh.                |
| 67. Khudaiwala.                                      | 17. Kheruwala.               |
| 68. Silnathwala.                                     | 18. Hathianwala.             |
| 69. Mannath wala.                                    | 19. Matili Khichran.         |
| 70. Harnarain wala.                                  | 20. Matili Sarnan.           |
| 71. Gurusarwala.                                     | 21. Chok Sonewala.           |
| 72. Gurusahaimalwala                                 | 22. Khat Sajwar.             |
| 73. Gurusar.   | 23. Manniwali.               |
| 74. Burewala.  | 24. Chak Dhola.              |
| 75. Jhambar Barani.                                  | 25. Naraingarh.              |
| 76. Jhambarwala.                                     | 26. Partappura.              |
| 77. Panniwala.                                       | 27. Behrampur<br>Bodlan.     |
| 78. Kanrani.   | 28. Baglanwali.              |
| 79. Sherekan.  | 29. Manukan.                 |
| 80. Masani.  |                              |

- |                       |                     |
|-----------------------|---------------------|
| 30. Chhapanwali.      | 16. Rasuwala.       |
| 31. Lalpura.          | 17. Indergarh.      |
| 32. Kilanwali.        | 18. Kishanpura      |
| 33. Sunderpura.       | Utrada.             |
| 34. Morjand Khari.    | 19. Shahpini,       |
| 35. Uttamsinghwala.   | 20. Inderpura,      |
| 36. Banwala.          | 21. Singhpura       |
| 37. Pucca Bhadwan.    | 22. Amarpura Jalu,  |
| 38. Bhagsar.          | 23. Morjand Sikhan, |
| 39. Daliawali.        | 24. Nathwana.       |
| 40. Chak Bhagsar.     | 25. Partap Nagar.   |
| 41. Chak Dulrasar.    | 26. Ratanpura.      |
| 42. Dulrasar.         | 27. Nagrana.        |
| 43. Shyamsinghwala.   | 28. Lilanwali.      |
| 44. Banwala.          | 29. Padampura.      |
| 45. Dharamsinghwala   | 30. Kikarwali.      |
| 46. Hakamabad.        | 31. Dholipal.       |
| 47. Budharwali.       | 32. Roranwali.      |
| 48. Fatehsinghwala.   | 33. Nawan.          |
| 49. Lalgargh.         | 34. Manaksar.       |
| 50. Chak Kera Duda    | 35. Chandran.       |
| Khichar.              | 36. Shergargh.      |
| 51. Sardarpura Jiwan. | 37. Malarkhera.     |
| 52. Jamyatsinghwala.  | 38. Rampura Bechi-  |
| 53. Mamarkhera.       | ragh.               |
| 54. Rotanwali.        | 39. Saliwali.       |
| 55. Kikarwali         | 40. Gudia.          |
| 56. Panniwali.        | 41. Sabuana.        |
| 57. Ganeshgarh.       | 42. Khara Khara.    |
| 58. Takhranwali.      | 43. Manak Tibi.     |
| 59. Jogiwal.          | 44. Sabarni.        |
| 60. Dungarsinghpura.  | 45. Kulchandra.     |
| 1. Malarampura.       | 46. Gilwala.        |
| 2. Lholnagar.         | 47. Bashir.         |
| 3. Sutatpura alias    | 48. Surewala.       |
| Bhakra wali.          | 49. Chandurwali.    |
| 4. Santpura.          | 1. Bhagi Bandar.    |
| 5. Haripura,          | 2. Singhpura.       |
| 6. Phuldesar.         | 3. Haripura alias   |
| 7. Dhaban.            | Khatau.             |
| 8. Dingargh.          | 4. Gurusar Modia.   |
| 9. Bhagatpura.        | 5. Suranwali.       |
| 10. Sangaria.         | 6. Hardayalpura.    |
| 11. Bolanwali.        | 7. Ayalki.          |
| 12. Nukera.           | 8. Longwala.        |
| 13. Lambi Dhab.       | 9. Sadusinghwala.   |
| 14. Jandwala Sikhan.  | 10. Hansaliya.      |
| 15. Harisinghwala.    | 11. Bilochanwala.   |

3. Tehsil-  
dar Coloni-  
sation,  
Sangaria.

4. Tehsildar  
Colonisa-  
tion  
Suratgarh.

12. Lakhasar.		58. Rangmahal.
13. Dhaban,	5. Tehsil-	1. Nithrana North.
14. Jorkian.	dar, Coloni-	2. Nithrana South.
15. Bhagwargarh.	sation,	3. Khachwana.
16. Sardarpura Bikan.	Bhadra	4. Bir Bhadra.
17. Ghamandia.		5. Sardarpura alias
18. Sidhuwala.		Bas Chiriyā
19. Ramsar Jakhran.		Gandhi.
20. Sangar.		6. Chak Chirya
21. Lakhmisar.		Gandhi.
22. Thirajwala.		7. Chirya Gandhi.
23. Kharlian.		8. Gandhi Bari.
24. Dingwala.		9. Sherpura.
25. Amarpura Rathan		10. Malkhera.
26. Rampura.		11. Ramgaria.
27. Bhagsar Khurd.		12. Sabuwala.
28. Premtura.		13. Bambalwas.
29. Alimadpura.		14. Janana.
30. Lakhuwali.		15. Mehāna
31. Dulmana.		16. Ninan.
32. Bir Dulmani.		17. Sawai Chhani.
33. Dulmani.		18. Chhani Bari South
34. Dhirdesar.		19. Chhani Bari North
35. Pilibangan.		20. Udran.
36. Kalibangan.		21. Biran.
37. Saramsar.		22. Jhansal.
38. Ludlian.		23. Bēr.
39. Nihalpura.		24. Garhi Chhani.
40. Baropal.		25. Bhairun Chhani.
41. Karnisar.		26. Sawai Chhani.
42. Chak Karnisar.		27. Lakhanwas.
43. Karnisar Utrada		28. Sagra.
44. Lalpura.		29. Bhiran.
45. Bhagwansar.		30. Saratpura.
46. Chak Nali Bhag-		31. Amarpura.
sar.		32. Sardarpur Bas-
47. Sheopura.		Bhola.
48. Shuwala.		33. Jogiwala.
49. Kanpura.		34. Gangasinghpura.
50. Sardargarh		35. Patwa.
North.		36. Chak Bhadra.
51. Sardargarh South		37. Dobi.
52. Bhairunpura.		38. Motipura.
53. Mohamadabad.		39. Dholpalia.
54. Amarpura Jatan.		40. Sardarpura Bas
55. Suratgarh.		Bhadra.
56. Bir Suratgarh.		41. Rajpura.
57. Manaksar.		42. Bhadra South.

43. Bhadra North
44. Jhorarpura.
45. Sherpura.
46. Ganeshpura.
47. Ratanpura.
48. Nangal
49. Bhojasar.
50. Chak Bhojasar.
51. Dungarwas.
52. Bharwana.
53. Sardargaria.
54. Biharjpura.
55. Sikrori.
56. Hathipura.
57. Karanpura.
58. Munsari.

6. Tehsil-  
dar, Coloni-  
sation,  
Nohar.

1. Sheodanpura.
2. Dhandela Chak  
Nehri.
3. Khanania.
4. Dhandl Lalkhan.
5. Bhukarka.
6. Pichkarai.
7. Jasana North.
8. Jasana South.
9. Ratanpura.
10. Malwani.
11. Phephana West.
12. Phephana East.
13. Janania.
14. Padampura.
15. Rujpuria.
16. Gudia.
17. Barwali.
18. Parlika North.

19. Parlika South.
20. Ramsara.
21. Dhani Araiyan.
22. Nohar.
23. Soti Bari.
24. Soti Parihari.
25. Diplana.
26. Karoti.
27. Bad Birana.
28. Ramgarh North.
29. Ramgarh South.
30. Ujjalwas.
31. Gogameri.
32. Dhilki Chaylan.
33. Dhilki Jatan.
34. Lalana Bas  
Utrada.
35. Lalana Bas  
Sheopura.
36. Lalana Bas  
Nathwanian.

7. Dy. Di-  
rector of  
Colonisa-  
tion, Ha-  
numangarh.

Colonisation Tehsils  
Hanumangarh, Sin-  
garia and Sadulsha-  
har as defined above.

8. Dy. Di-  
rector of  
Colonisa-  
tion, Nohar.

Colonisation Tehsils  
Suratgarh, Bhadra  
and Nohar as defi-  
ned above.

9. Director  
of Colo-  
nisation.

Whole are covered  
by the six Colonisa-  
tion Tehsils as defi-  
ned above.

*Published in Raj. Raj-patra Dated May 30, 1957 part IV (c) at page 97 :*

Revenue Department

## NOTIFICATION

Jaipur, May 20, 1957.

*No. F. 6 (31) Rev/A/57.*—In exercise of the powers conferred by sub-section (3) of section 1 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Rajasthan Act XXIV of 1954), the State Government does hereby appoint the 1st June, 1957 as the date on which chapters III and IV of the said Act shall come into force in the areas specified below:—

1. Bhadra Tehsil District Ganganagar.



- 2 Tehsil Bali and Ahor, District Pali.
3. Tehsil Bassi, District Jaipur.
4. Tehsil Nimbahera and Chittor, District Chittorgarh.

By Order of the Governor,  
R. N. HAWA,  
Secretary to the Government.

*Published in Raj. Raj-patra Dated June 20, 1957 part IV (c) at page 168 :*

Revenue (A) Department

### NOTIFICATION

Jaipur, June 4, 1957.

No. F. 6 (31) Rev/A/57.—In exercise of the powers conferred by section 42 of the Rajasthan Holdings, (Consolidation and Prevention of Fragmentation) Act 1954 (Act No. XXIV of 1954), the Government of Rajasthan does hereby delegate the powers and functions of State Government under section 14 of the said Act to the Director, Consolidation of Holdings, Rajasthan.

By order of the Governor,  
R. N. HAWA,  
Secretary to the Government.

*Notifications under*

## Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954.

*Published in Raj. Raj-patra part IV (c) dated July 14, 1960 at page 132*

Revenue 'B' Department

### NOTIFICATION

Jaipur, March 7, 1960.

*No. F. 11 (5) Rev. B/59*—In exercise of the powers conferred by sub-section (3) of section 1 of the Rajasthan Holdings (Consolidation & Prevention of Fragmentation) Act, 1954 (Rajasthan Act XXIV of 1954), the State Government hereby directs that the provisions of Chapters III and IV of the said Act shall come into force in the Rajasthan Canal area with effect from the date of publication of this notification.

By Order of the Governor,  
R. S. CHOWDHRY,

Secretary to the Government.

*Published in Raj. Raj-patra part IV (c) at page 274*

Revenue 'D' Department

### NOTIFICATION

Jaipur, May 31, 1960.

*No. F. 11 (7) Rev. D/60*:—In exercise of the powers conferred by section 42 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Act No. XXIV 1954), the Government of Rajasthan does hereby delegate the powers and functions of State Government under section 43A of the said Act to the Director, Consolidation of Holdings, Rajasthan.

By Order of the Governor,  
R. K. CHATURVEDY,  
Secretary to the Government.

*Published in Raj. Raj-patra part II (a) dated August 11, 1960 at page 125*

Office of the Director of Consolidation of Holdings, Rajasthan,

Jaipur

### NOTIFICATION

Jaipur, April 8, 1960.

*No. S. M. (5) 3467*.—In exercise of the powers conferred by sub-section (3) of section 1 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Rajasthan Act No. XXIV of 1954) and delegated to me under section 42 of the said Act by Revenue 'B' Department Notification No. F. 6 (497) Rev. B/55, dated the 17th February, 1960. I, the undersigned appoint

the 1st March, 1960, as the date on which the Chapters III & IV of the said Act shall come into force in the areas specified below:—

1. District Alwar.

P. L. SUKHWAL,  
Director,  
Consolidation of Holdings,  
Rajasthan, Jaipur.

*Published in Raj. Rajpatra part II (a) dated October 6, 1960 at page 221*

Jaipur, September 2, 1960.

No. S. M. (126) 8843 —In exercise of the powers conferred by section 43-A of the Rajasthan Holding (Consolidation and Prevention of Fragmentation) Act 1954, and with reference to the State Government Notification No. F. 11 (7) Rev. D/60, dated the 31st May, 1960, I, P. L. Sukhwat, I.A.S., Director, Consolidation of Holding, Rajasthan, hereby notify that the land-holders and tenants having entered in to possession of their new holdings in accordance with the provisions of Section 23, the Consolidation Operations have been closed in the villages of tehsil Talera District Bundi notified under this Department Notification No. S.M. (14) (1) 8759, dated 22-11-58, issued under section—14 of the act.

S. No. 1	Name of villages. 2	S. No. 1	Name of villages 2
1.	Lilera	5.	Jaloda
2.	Saptija	6.	Alkodis (Part)
3.	Motuka	7.	Mohipura
4.	Biluva	8.	Chak Mohipura

Societies, Alwar to manage its affairs till the fresh election of the Board of the Directors of the Sansthan is held. He will exercise all the powers of the Board of Directors.

NIRANJAN SINGH  
Registrar, Co-operative Societies  
Rajasthan, Jaipur.

Jaipur, September 13, 1960.

No. S. M. (5) 9103.—In exercise of the powers conferred by sub-section (3) of section 1 of the Rajasthan Holdings (Consolidation & Prevention of Fragmentation) Act, 1954 (Rajasthan Act No. XXIV of 1954) and delegated to me under section 42 of the said Act by Revenue (B) Department Notification No. F. 6 (497) Rev. B/55 dated the 17th February, 1960 I, the undersigned appoint the 19-1960 as the date on which the chapters III & IV of the said Act shall come into force in the areas specified below.

1. District Udaipur.
2. District Ajmer.

P. L. SUKHWAL,  
Director, Consolidation of  
Holdings, Rajasthan, Jaipur.

Published in Raj. Raj patra part II (a) dated October 13, 1960 at page 223-224

Consolidation of Holdings Department, Rajasthan, Jaipur.

### NOTIFICATION

Jaipur, September 16, 1960.

No. S. M. (126) 9193.—In exercise of the powers conferred by section 43-A of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954, and with reference to the State Government Notification No. F. 11 (7) Rev. D/60, dated the 31st May, 1960, I, P.L. Sukhwai, I.A.S., Director, Consolidation of Holdings, Rajasthan, hereby notify that the land holders and tenants having entered into possession of their new holdings in accordance with the provisions of section 23, the consolidation operations have been closed in the following villages of tehsil Bali District Pali notified *vide* this Department Notifications noted against them:—

S. No.	Name of villages.	No. and date of notification.
1.	Sindroo	No. S.M. 14 (1) 703 dated 14-2-58.
2.	Badgaonra	No. S.M. 14 (1) (2) 7928 dated 28-10-58
3.	Akadara	
4.	Mataji-ka-bara	
5.	Daulatpura	No. S.M. 14 (1) (2) 8614 dated 20-11-58.
6.	Anup-pura	

Jaipur, September 16, 1960.

No. S.M. (126) 9199.—In exercise of the powers conferred by section 43-A of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954, and with reference to the State Government Notification No. F. 11 (7) Rev. D/60 dated the 31st May, 1960, I, P.L. Sukhwai, I.A.S., Director, Consolidation of Holdings, Rajasthan hereby notify that the land holders and tenants having entered into possession of their new holdings in accordance with the provisions of section 23 the consolidation operations have been closed in the following villages of tehsil Gangapur District S. Madhopur notified *vide* this Department Notification noted against them:—

S. No.	Name of villages	No. and date of notification.
1.	Mau Kalan	No S.M. 14 (1) (2) 2862 dated 30-5-58
2.	Mau Mhurd	..
3.	Daulatpure	..
4.	Jeewapur	..
5.	Chhawa	..

6	Chhak Chawa	...	"
7.	Bhadh Beechla	....	"
8.	Ratupure Urf Badh Khurd	...	"
9.	Badh Bhawata	...	"
10.	Brahmbadh	...	"
11.	Badh Mahanandpura	....	"
12.	Badh Bidar Khan Urf Dhudhupura	....	"
13	Mirzapura	....	"
14,	Gawdi Kalan	....	"
15.	Nagaon with Badh	....	"
16.	Saloda	....	"
17.	Khanpur Baroda	....	"
18.	T'hali	....	"
19.	Totolai	....	"
20.	Arniya	....	"

Jaipur, September 16, 1960.

No. S. M. (126) 9205.—In exercise of the powers conferred by section 43-A of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954, and with reference to the State Government Notification No. F. 11 (7) Rev. D/60, dated the 31st May, 1960, I, P.L. Sukhwai. I.A.S., Director, Consolidation of Holdings, Rajasthan, hereby notify that the land holders and tenants having entered into possession of their new holdings in accordance with the provisions of section 23, the consolidation operations have been closed in the following villages of tehsil Baswa District Jaipur notified *vide* this Department Notification noted against them:—

S. No.	Name of villages	No. and date of notification.
1.	Mitarwadi	...
2.	Sumel Kalan	....
3.	Nurpura	....
4.	Digariya Bheem	....
5.	Shyam Singh Pura	....
6.	Naya Gaon	....
7.	Kolwa	....
8.	Digaria Tapa Kalesh war	....
9.	Sumel Khurd	....
10.	Aliya Pada	....
11.	Karira	....
12.	Jalalpura	....
13.	Turwada	....
14.	Chandanwas	....

No. S.M. 14 (1) 8758 dated  
22-11-58.

15. Syalawas Khurd	....	..
16. Keeratpura	....	..
17. Padia	....	..
18. Kulaida	....	..
19. Jaisinghpura	....	..
20. Agawali	....	..
21. Keshrasinghpura	....	..
22. Harnathpura	....	..
23. Daiwada	....	..
24. Ramchandrapura-Alias Kukarwadi	....	..
25. Jagsoli	....	..
26. Chanderi	....	..
27. Delawarpura	....	..
28. Bhataitpura	....	..
29. Chimapura	....	..
30. Abbaneri	....	..
31. Bas Gudlia	....	..
32. Manota	....	..

Jaipur, September 16, 1960.

No. S.M. (126) 9211.—In exercise of the powers conferred by section 43-A of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 and with reference to the State Government Notification No. F. 11 (7) Rev. D/60 dated the 31st May, 1960, I, P.L. Sukhwai I.A.S., Director, Consolidation of Holdings, Rajasthan, hereby notify that the land holders and tenants having entered into possession of their new holdings in accordance with the provisions of section 23, the consolidation operations have been closed in the following villages of tehsil Baswa District Jaipur notified *vide* this Department Notifications noted against them:—

S. No.	Name of village.	No. and date of notification.
1	2	3
1.	Rampura	.... No. S.M. 14 (1) 2014 dated 17-3-59
2.	Jaitalwadi	.... No. S.M. 14 (1) 2014 dated 17-3-59
3.	Dwarapura	.... No. S.M. 14 (1) 2014 dated 17-3-59
4.	Chainpura	.... No. S.M. 14 (1) 2014 dated 17-3-59
5.	Tiharda	.... No. S.M. 1 (14) 2014 dated 17-3-59

Jaipur, September 19, 1960.

No S M. (126) 9277.—In exercise of the powers conferred by section 43-A of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 and with reference to the State Government Notification No. F. 11 (7) Rev. D/60 dated the 31st May, 1960, I, P.L. Sukhwai, I.A.S., Director, Consolidation of Holdings, Rajasthan, hereby notify that the land holders and tenants having entered into possession of their new holdings in accordance with the provisions of section 23, the consolidation operations have been closed in the following villages of tehsil Gangapur District Sawai Madhopur notified *vide* this Department Notifications noted against them:—

S. No.	Name of Villages.	No. and date of notification.
1. Badh Chhawa No. 1		No. S.M. 14 (1) dated 21-3-59.
2. Badh Chhawa No. 2		
3. Badh Khuntla		No. S.M. 14 (1) 3416 dated
4. Khudsiya		9-5-59
5. Tajpur		.... No. S.M. 14 [1] 7314 dated
		21-8-59

Jaipur, September 19, 1960.

No. S. M. [126] 9283.—In exercise of the powers conferred by section 43-A of the Rajasthan Holdings [Consolidation and Prevention of Fragmentation] Act, 1954, and with reference to the State Government Notification No. F. 11 [7] Rev. D/60 dated the 31st May, 1960, I, P.L. Sukhwai, I.A.S., Director, Consolidation of Holdings, Rajasthan, hereby notify that the land holders and tenants having entered into possession of their new holdings in accordance with the provisions of section 23, the consolidation operations have been closed in the following villages of tehsil Bali District Pali notified *vide* Revenue Department Notification noted against them:—

S. No.	Name of villages.	No. and date of notification.
1	2	3
1. Kheramordu		No. D. 6127/F 6. [31] Rev A/57 dated 21-5-57
2. Ramnagar	....	"
3. Baloopura	....	"
4. Gudiya	....	"
5. Bangri	....	"
6. Gogra	....	"
7. Nawakhera	....	"
8. Rajpura	....	"

9. Balwana	....	..
10. Kherjriya	....	..
11. Angore	....	..
12. Hingola	....	..
13. Khimara	....	..
14. Basant	....	..
15. Takhatgarh	....	..
16. Koliwada	....	..
17. Jakhoda	....	..
18. Balana	....	..
19. Khivandi	....	..
20. Bankli	....	..
21. Purada	....	..
22. Dujana	....	..
23. Pomawa	....	..
24. Koselao	....	..
25. Pawa	....	..
26. Sanderao	....	..

P.L. SUKHWAL,  
Director of Consolidation of  
Holdings, Rajasthan, Jaipur.



**RAJASTHAN HOLDINGS (CONSOLIDATION AND  
PREVENTION OF FRAGMENTATION ACT, 1954.**

*Published in Raj. Raj-patra part I (b) dated December 7, 1961 at pages 302 :*

Revenue (B) Department  
NOTIFICATION.

*Jaipur, November 17, 1961.*

No. F 10 (26) Rev.B/60.—In exercise of the powers conferred by section 42 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Rajasthan Act No. XXIV of 1954) the State Government is hereby pleased to delegate its powers under section 37 of the aforesaid Act in respect of Tehsil Bhadra (District Ganganagar) to the Collector Ganganagar

By Order of the Governor,  
R. K. CHATURVEDY,  
Secretary to the Government.

*Published in Raj. Raj patra part IV (c) dated April 26, 1962 at page 99-100 :*

*Jaipur, February 7, 1962.*

No. F. 4 (2) RCPD/61-IV.—In exercise of the powers conferred by section 20 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Act XXIV of 1954), and in supersession of Revenue (B) Department Notification No. F. 11 (5) Rev.-B/59 dated the 7th April, 1961, the State Government hereby appoints the following persons to be Settlement Officers (Consolidation) for the areas, under their respective jurisdictions, namely:—

S.No.	Designation.	Head-quarters	Jurisdiction.
1.	Assistant Colonisation Commissioner, Rajasthan Canal Project (Survey Unit)	Suratgarh	Rajasthan Canal Colony Area.
2.	Assistant Colonisation Commissioner, Rajasthan Canal Project (Allotment Unit)	Bikaner	-do-
3.	Assistant Colonisation Commissioner, Rajasthan Canal Project (Colonisation Unit).	Hanumangarh	-do-

*Jaipur, February 7, 1962.*

No. F. 4 (2) RCPD/61-VI.—In exercise of the powers conferred by section 42 of the Rajasthan Holding (Consolidation and Prevention of Fragmentation) Act, 1954 (Act No. XXIV of 1954), the State Government hereby delegates the powers and functions of State Government under section 14 of the said Act to the Colonisation Commissioner, Bikaner.

By Order of the Governor,  
S. D. UJWAL,  
Addl. Chief Secretary to Government.

*Notification under*

**RAJ. HOLDINGS (CONSOLIDATION AND PREVENTION  
OF FRAGMENTATION) ACT, 1954**

Revenue Colonisation Department

Jaipur, July 31, 1967.

**Notification No. F. 5 (20) Rev. /Col./66.**—In exercise of the powers conferred by section 42 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Act 24 of 1954) and in supersession of the Revenue 'A' Department Notification No. D. 3445/F. 22 (5) Revenue/A/55, dated the 20th April, 1955, the State Government hereby delegates to the Additional Collector (South), Ganganagar, the powers of the Government under sub-section (4) of section 17 and section 37 of the aforesaid Act, subject to the condition that the Government may also exercise the powers under the aforesaid provisions in such cases as the Government may deem fit.

[Pub. in Raj. Gaz. 4 (Ga)—Dt. 21-9-67-Page 707]

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*Rules and Notifications under*

HOME GUARDS ORDINANCE, 1962 (RAJASTHAN  
ORDINANCE 2 OF 1962).

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# Rajasthan Home Guards Rules, 1962

Home 'A' Department

## NOTIFICATION

Jaipur, December 1, 1962.

No. F. 18/4 (1) Home (A-1)/59.—In exercise of the powers conferred by section 10 of the Rajasthan Home Guards Ordinance, 1962, (Rajasthan Ordinance 2 of 1962), read with sections 2, 3, 6 and 8 thereof, the State Government makes the following rules, namely:—

1. *Short title.*—These rules may be called the Rajasthan Home Guards Rules, 1962.

2. *Definitions.*—In these rules, unless the context otherwise requires:—

(1) 'Ordinance' means the Rajasthan Home Guards Ordinance, 1962 (Rajasthan Ordinance 2 of 1962);

(2) "Commandant" means a Commandant of Home Guards appointed under section 2;

(3) "Commandant General" means the Commandant General appointed under section 2;

(4) "Form" means a form appended to these rules;

(5) "Home Guards" means the Home Guards constituted under section 2;

(6) "Member of Home Guards" means a member appointed under section 3;

(7) "section" means a section of the Ordinance.

3. *Appointment of member of Home Guards.*—(1) No person shall be appointed as a member of the Home Guards, unless:—

(a) he has attained the age of 20 years and has not completed the age of 50 years;

(b) he has passed at least the fourth standard examination in any language;

(c) he has been medically examined in accordance with the directions of the Commandant General and is in the opinion of the Commandant General physically fit;

Provided that the Commandant General may relax the conditions regarding the age or educational qualifications prescribed in clauses (a) and (b) above in suitable cases:

Provided further that the State Government may direct that in respect of any area the educational qualification for appointment as a member of the Home Guards shall be such as it deems fit.

4. *Application for appointment.*—A person desiring to be appointed a member of the Home Guards shall make an application in Form A.

5. *Home Guards Selection Committee.*—(1) The State Government shall appoint a Committee to be called the Home Guards Selection Committee for each of the areas for which the Home Guards has been constituted under section 2.

(2) The Home Guards Selection Committee shall consist of such members as may be nominated by the State Government.

(3) It shall be the duty of the Home Guards Selection Committee to advise the Commandant in the selection of Candidates for appointment as members of the Home Guards.

6. *Pledge.*—Every person before his appointment as a member, shall sign a pledge in Form B before the Commandant or an officer authorised by him for the purpose.

7. *Certificate.*—Every person appointed as a member of the Home Guards shall receive a certificate of appointment in Form C.

8. *Term of office.*—The term of office of a member of the Home Guards shall be five years.

9 Provided that—

(i) if any such member is found to be medically unfit to continue as a member of Home Guards his appointment may be terminated before the expiry of the term of office;

(ii) a person appointed shall be eligible for re-appointment;

(iii) the services of a member of the Home Guards may be terminated at any time by the Commandant or the Commandant General, as the case may be, after giving one month's notice.

9. *Age-limit for a member of the Home Guards.*—A member of the Home Guards may continue to be such member until he attains the age of 55 years:

Provided that the Commandant-General may relax the age limit in reasonable cases.

10. *Conditions subject to which power of discharge may be exercised.*—No member of the Home Guards shall be discharged under sub-section (2) of section 8, unless the Commandant or the Commandant General, as the case may be, is satisfied that such member has committed an act detrimental to the good order, welfare or discipline of the Home Guards Organisation.

11. *Resignation.*—A member of the Home Guards may resign his office by an application in writing addressed to the Commandant:

Provided that such resignation shall not take effect unless the Commandant-General or the Commandant accepts the same after being satisfied that there are good and sufficient reasons for the same.

12. *Ornanisation*.—In addition to the Commandant General and the Deputy Commandant General, the Home Guards constituted for each area shall consist of a Commandant; a second in Command, an Adjutant, Senior Divisional Commanders, such staff officers as the Commandant may consider necessary, Divisional Commanders, Company Commanders, Senior Platoon Commanders, Platoon Commanders, Sergeant majors Quarter Master Sergeants. Platoon Sergeant, Sections leaders, Assistant Section Leaders and Sections. Three Sections shall form a Platoon, three Platoons a Company and Three Companies a Division.

13. *Powers of the Commandant-General and Commandants*.—

(1) The Commandant-General shall exercise general supervision and control over the working of all Commandants in the State and co-ordinate the work of the Home Guards all over the State. He shall be directly responsible to the State Government for efficient working, discipline, administration, and training of the organisation.

(2) Subject to the supervision and control of the Commandant-General, each Commandant shall exercise supervision and control over the working of the Home Guards under his Command. He shall be responsible to the Commandant-General and the State Government for the efficient working, discipline, administration and training of the Home Guards under his command.

(3) Subject to the supervision and control of the Commandant General and the Commandant, any officer of the Home Guards authorised by the Commandant in this behalf may exercise the powers conferred by section 4 on the Commandant in such circumstances as the Commandant may specify.

14. *Discipline*.—(1) A member of the Home Guards shall obey every order of his superior officer.

(2) For the purpose of administration and discipline the members of the Home Guards shall be under the control of their own officers:

Provided that if a contingent of Home Guards is acting in conjunction with the ordinary Police Force, the senior officer such contingent present shall be under the immediate control and subject to the directions of the senior officer of such Police force present not below the rank of a Sub-Inspector.

15. *Uniforms, accounirements, etc.*—A member of the Home Guards shall, while on duty, wear the uniform supplied to him. He may also carry a rifle or a revolver or any other weapon, sanctioned by the State Government from time to time.

16. *Training*.—The members of the Home Guards shall undergo such course of training as may be determind in writing by the Commandant General from time to time and at such places as may be fixed by the Commandant from time to time.

17. *Functions and duties.*—The functions and duties of members of the Home Guards shall ordinarily be as follows:—

- (1) To help in maintaining Law and Order.
- (2) To be nucleus of a civil emergency organisation to help in abnormal calamities.
- (3) To provide the nucleus of auxiliary, fire, rescue, communications and Ambulance services.
- (4) To operate transport communications electricity, water and essential services, when the normal services, are not functioning.

(5) To assist in the social welfare scheme of the Government.

(6) To perform such other duties as may be assigned from time to time by the State Government or the Commandant-General.

18. *Remuneration.*—Officers and other members of the Home Guards shall be entitled to receive such allowances and at such rates as the State Government may from time to time determine.

19. *Compensation.*—If a member of the Home Guards suffers any damage to his person or property while under training or on duty, he shall be paid such compensation as may be determined by the State Government, provided that such damage is not caused by his own negligence or wilful act or omission in contravention of any of the provisions of the Act or rules made thereunder or orders or directions issued by his superior officer.

FORM 'A'

(See rule 4)

To,

THE COMMANDANT, HOME GUARDS

... ..

1. I declare that I am a citizen of India and that I desire to be enrolled a member of the Home Guards for ... .. and have no intention of permanently leaving the limits of the State of Rajasthan for at least five years after enrolment and that I am not under any obligation to serve in any other force.

2. I understand that.—

(1) In any emergency I shall be liable to be called out on duty at any time and for any period and in any part of the State of Rajasthan.

(2) I shall be liable to undergo training and attend parades in accordance with the orders of my superior officers,

(3) I shall be required to take the following pledge, namely:—

"I... ..residing at... ..  
... ..do solemnly and sincerely declare

and affirm that I will well and truly serve the Government of Rajasthan as a member of the Home Guards in... ..  
 ...., without favour or affection, malice or ill-will or communal or political bias; and that I will to the best of my powers discharge the functions and duties assigned to me for the protection of peace, the security of property and the public safety and that I will to the best of my skill and knowledge discharge all the duties as such member faithfully according to law and will not allow any communal and political bias to interfere with the duties assigned to me by Government or my superior officers”.

(4) I shall be required to serve for a period of five years in the Home Guards unless I am allowed to resign in pursuance of the Rajasthan Home Guards Rules, 1962.

(5) I shall ordinarily be liable to serve in any part of... ..

3. 1. Name in full... ..
2. Address (Residence) ... ..  
(Business) .. ..
3. Telephone No. (Residence).... ..  
(Business) if any.... ..
4. Date of birth.... ..
5. Place of birth ... .. (Town).... ..  
Country or district.... ..
6. Occupation or profession.... ..
7. Education (Degree held or examination passed). Special qualifications such as knowledge of foreign languages or stenography or typing should be mentioned).... ..
8. Particulars of war service or Military or naval training or training with any first-aid or ambulance Corps.
9. Father's name ... ..
10. Father's occupation or profession.... ..
11. If originally a resident of Pakistan, the address in that Dominion and the date of migration to Indian Union  
... ..
12. Particulars of places where you have resided for more than one year during the preceding five years. ... ..

From,... ..

To,... ..

(Residential address in full, i.e., village, Thana and district or House number, Lane/Street and Road).... ..

4. The answer to the following questions are as given against them:—

- (1) Do you hold an arms Licence? If so, give description of the weapon.



(2) Have you received any training in the use of fire-arms ?

(3) Have you ever been convicted by a court of any offence ? If so, give particulars of the convictions and sentences.

I declare that the above particulars are correct.

Date....      ....      ....      (Signature)....      ....      ....

Certificate of character signed by the gentlemen of position who have known you personally for at least three years should be written in space below.

1. Signature of person who gives the certificate....      ....      ....

2. Address....      ....      ....      ....      ....  
Telephone No. (if any)....      ....      ....      ....      ....

3. Signature of person who gives the certificate....      ....      ....  
Address ...      ....      ....  
Telephone No. (if any) ...      ....      ....      ....      ....

Notes:—(1) If you are a Government servant or an employee in a local authority, a firm or any other office you should send this form through your superior officer with his certificate that he has no objection to your attending the training and that he will release you for duty in an emergency at any time and for any period and in any part in the State of Rajasthan.

(2) After completing the form you should post it or deliver it to the Commandant Home Guards....      ....      ....  
You will receive intimation in due course whether your services can be utilised.

Certificate to be signed by the Employer or the Superior Officer.

I certify that I shall have no objection to the employee....      ....  
...      ....      ....      ....attending the training on week days in the morning and that I shall release him for duty in an emergency at any time, and for any period, as laid down in paragraph (1).

(Signed)

*Employer or Superior Officer.*

Dated      ....      ....

Full Address ...      ....      ....

Telephone No. (If any)....      ....      ....

In requesting the Employer or the Superior Officer to issue the above certificate, the Commandant desires to point out that emergencies such as these are referred to in paragraph (1) are not likely to arise very often. Prospecting Home Guards should, therefore, not be scared away, nor should their Employers, or Superior Officers, hesitate to issue the above certificate for just this reason.

## FORM B.

(See rule 6)

## Form of Pledge.

I.... ..residing at .. ..do solemnly and sincerely declare and affirm that I will well and truly serve the Government of Rajasthan as a member of the Home Guards' in ... ..without favour or affection, malice or ill-will, or communal or political bias; and that I will, to the best of my powers cause peace to be kept and preserved, and prevent all offences against persons and property, and that, while I continue to be a member of the Home Guards, I will, to the best of my skill and knowledge, discharge all the duties as such members, faithfully, according to law, and will not allow any communal or political bias to interfere with the duties assigned to me by Government or my superior officers.

Date.... ..  
Taken in presence of ... .. Signature

## FORM 'C'

(See rule 7)

Certificate of appointment as a member of the Home Guards which should be incorporated in the identification card.

No.... ..

STATE OF RAJASTHAN.

Shri.... ..has been appointed as a member of the Home Guards for the (area)... ..under the Rajasthan Home Guards Ordinance, 1962 (Rajasthan Ordinance 2 of 1962).

Signature.... ..

Designation.... ..

By Order of the Governor,

SHIV SHANKER,

Secretary to the Government.

*Notifications under*

## HOME GUARDS ORDINANCES, 1962

*Published in Raj- Raj-patra part IV (c) dated December 13, 1962 at page 693 :*

*Jaipur, November 28, 1962.*

No. F. 10/4 (1) Home (A-Gr. 1)/59.—In exercise of the powers conferred by sub-section (3) of section 2 of the Home Guards Ordinance, 1962, (Ordinance No. 2 of 1962) the State Government hereby appoints the Inspector General of Police, Rajasthan as the Ex-officio Commandant General for the Home Guards for the whole State.

*Jaipur, November 28, 1962.*

No. F. 10/4 (1) Home (A-Gr.)/59.—In exercise of the powers conferred by section 2 (1) of the Home Guards Ordinance, 1962 (Ordinance No. 2 of 1962) the State Government hereby constitutes for each of the Districts mentioned below a volunteer body called the Home Guards. Further under section 2 (2) of the said ordinance the State Government appoints the Superintendents of Police of the respective districts as the Ex-officio Commandants for the said districts:—

1. Udaipur.
2. Bhilwara.
3. Jaipur.
4. Bharatpur.
5. Sikar.
6. Alwar.
7. Tonk.
8. Ajmer.
9. Kota.
10. Jodhpur.
11. Jaisalmer.
12. Barmer.
13. Bikaner.
14. Ganganagar.

SHIV SHANKER,  
Secretary to the Government.

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*Rules and Notifications under*

RAJASTHAN HOME GUARDS ACT, 1963

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*Rules and Notifications under*

INCOME TAX ACT, 1961 READ WITH INCOME TAX  
(CERTIFICATE PROCEEDINGS) RULES, 1962.

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## *Notifications under*

### INCOME TAX ACT 1961 READ WITH INCOME TAX (CERTIFICATE PROCEEDINGS) RULES, 1962

Notification No. F. 12 (28) FD/(B)/61 —In exercise of the powers conferred by sub clause (ii) of clause (44) of section 2 of the Income Tax Act, 1961 (43 of 1961) read with sub-rule (2) of rule 7 of the Income-Tax [Certificate Proceedings) Rules, 1962, the Government of Rajasthan hereby authorises every Tehsildar who has been empowered to effect recovery of arrears of land revenue under Land Revenue Act, 1956 (15 of 1956) to exercise the powers of a Tax Recovery Officer under the said Income-Tax Act, 1961 in respect of the areas for which he is performing the functions relating to the recovery of arrears of land revenue under the second mentioned Act.

2. This notification shall be deemed to have come into force on the 1st day of April, 1962.

(Rajasthan Gazette, Extraordinary dated 14-8-63-Page 449)  
Finance (Revenue & Eco. Affairs) Department)

Notification No. F. 12 (28) F.D/3/61.—In exercise of the powers conferred by sub-clause [ii] of clause [44] of section 2 of the Income-Tax Act, 1961 (Central Act 43 of 1961) read with sub-rule [2] of Rule 7 of the Income-Tax [Certificate Proceedings] Rules, 1962, the State Government hereby authorises the following four Naib Tehsildars, who have been appointed as Additional Tehsildars vide Revenue [B] Department Notification No. F. 6 [113] Rev./B/Gr. II/63 dated 11th December, 1963 to exercise the powers of a Tax Recovery Officer under the said Act in respect of the areas noted in the table given below:—

Table

Sl. No.	Tax Recovery Officer	Areas.
1.	Naib Tehsildar (Income Tax Recovery), Ajmer.	All the Tehsils of the districts of [1] Ajmer [2] Bundi [3] Jhalawar [4] Kota [5] Banswara, [6] Bhilwara [7] Chittorgarh [8] Dungarpur and [9] Udaipur.

- |    |  |  |
|----|--|--|
| 2. | Naib Tehsildar (Income Tax Recovery), Jaipur.  | All the Tehsils of the districts of [1] Alwar [2] Bharatpur [3] Jaipur [4] Jhunjhunu [5] Sawai Madhopur [6] Sikar, and [7] Tonk. |
| 3. | Naib Tehsildar (Income Tax Recovery), Jodhpur. | All the Tehsils of the districts of [1] Barmer [2] Jaisalmer [3] Jalore [4] Jodhpur [5] Nagaur [6] Pali and [7] Sirohi.          |
| 4. | Naib Tehsildar (Income Tax Recovery), Bikaner. | All the Tehsils of the districts of [1] Bikaner [2] Churu and [3] Ganganagar.  |

(Rajasthan Gazette-dated 20-12-1963 Part IV (Ga) Page 1211).

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*Rules and Notifications under*

IDENTIFICATION OF PRISONERS ACT, 1956  
' THE RAJASTHAN (12 OF 1956).

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# RAJASTHAN IDENTIFICATION OF PRISONERS RULES, 1956

*Jaipur, May 25, 1957.*

No. F. 3 (27) 45/Home 1/55.—In exercise of the powers conferred by section 7 of the Rajasthan Identification of Prisoners Act, 1956 (12 of 1956) the Government of Rajasthan hereby makes the following rules, namely:—

## PRELIMINARY

1. *Short title and commencement.*—These rules may be called the Rajasthan Identification of Prisoners Rules, 1956 and shall come into force on the date of their publication in the Rajasthan Gazette.

## Notes

These rules have been framed in exercise of the powers conferred under section 7 of the Rajasthan Identification of Prisoners Act, 1956. The enabling section reads as under:—

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for:—

- (a) Restrictions on the taking of photographs of persons under section 4;
- (b) the places at which measurements and photographs may be taken;
- (c) the nature of the measurements that may be taken;
- (d) the method in which any class or classes of measurements shall be taken;
- (e) the dress to be worn by a person when being photographed under section 3; and
- (f) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(a) “Act” means the Rajasthan Identification of Prisoners Act, 1956 (12 of 1956).

(b) “section” means a section of the Act.

## PLACE AND MANNER OF TAKING MEASUREMENTS AND PHOTOGRAPHS.

3. *Place at which measurements and photographs under section 3 can be taken.*—(1) Measurements and photographs under section 3 may be taken.

(a) in Jail, if the person whose photograph and measurements are to be taken is in Jail;

(b) at a Police Station or at any other convenient place selected by the Police Officer, if the person whose photograph or measurements are to be taken is in the custody of the Police.

(2) If a person whose photograph or measurements are to be taken under section 3 has been released from the Jail before the

*These rules have been first published in Rajasthan Raj-patra dated June 20, 1957 in Part IV(c) at page 161.*

measurements or photograph could be taken or is not in the custody of the Police, he shall on receipt of an order in writing from the Officer incharge of a Police Station attend at such place and time as may be specified in such order, on the date mentioned therein, for the purpose of having his measurements and photographs taken.

(3) No person whose photograph or measurements have been taken under section 3 shall be required under sub-rule(2) to attend a Police Station or other place for the purpose of having his photograph or measurements taken again under section 3 unless such person again becomes liable under section 3 to have his photograph or measurements taken, or unless the photograph or measurements last taken are, in the opinion of the officer incharge of the Finger Print Bureau and Modus Operandi Bureau or any Police Officer having jurisdiction, defective.

#### Notes

Section 3 of the Act mentions the particulars of persons whose measurements and photographs are required to be taken. The section requires the Government to prescribe the manner in which such measurements and photographs shall be taken. This rule prescribes the different places at which such measurements and photographs of the persons mentioned in section 3 of can be taken.

4. *Measurements under section 3 and 4, how to be taken.*— (1). Measurements may be taken of the whole or any part of the body.

(2) Measurements of a woman shall be taken by another woman only, and with strict regard to decency.

(3) The measurements and photographs to be taken shall be such as are, in the opinion of the Police Officer taking them, necessary for the future identification of the person concerned.

(4) Finger impressions shall be taken by applying printer's ink to the palmar surface of the fingers and thumbs above the first joint and then applying the surface so inked to a paper-form, prepared so as to show the impression of each finger or thumb in the space provided for it.

(5) Footprint impressions shall ordinarily be taken by applying the printer's ink to the sole of the foot and then applying the inked surface to a sheet of paper or by tracing the outline of the foot, with or without shoes or boots on a sheet of paper.

(6) The photographs may be taken full face, side face, head bust or full length.

(7) This rule applies to measurements and photographs taken under section 3 and section 4 but whenever measurements and photographs are taken under section 4, any order to the contrary, if any, of the Magistrate who has directed the person to allow his measurements or photograph to be taken, shall be compiled with.

#### Notes

Section 3 of the Act authorises a police officer to take measurements and photographs of persons mentioned therein. Section 4 of the Act empowers the Magistrate to order a person to be measured and photographed. The rule prescribes the manner in which such measurement and photograph as required in section 3 and 4 shall be taken.

5. *Dress to be worn by a person being photographed under section 3 and his identification by witnesses.*—The person to be photographed under section 3 shall, when he is not in Jail, be first identified by two witnesses and shall wear his ordinary clothes and shall be bare-headed or wear head-gear as required by the Police Officer under whose direction the photograph is being taken. Such person may also be required to allow himself to be photographed wearing any other kind of clothes if there is reason to suspect that he has worn such clothes for the commission of any offence.

#### CUSTODY AND DISPOSAL OF PHOTOGRAPHS AND MEASUREMENTS

6. *Custody and disposal of measurements and photographs taken under Section 3.*—(1) Photographs and measurements of persons mentioned in clauses (a) (b) and (c) of section 3 together with negatives and all copies thereof shall be recorded and kept in safe custody with the Superintendent of Police, C. I. D., Rajasthan or the District Superintendent of Police.

#### Notes

The following are the persons mentioned in clauses (a), (b) and (c) of section 3 of the Act:—

- (a) Convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards or of any offence which would render him liable to enhanced punishment on a subsequent conviction, or
- (b) ordered to give security for his good behaviour under section 118 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), or
- (c) arrested under section 55 of the said Code, or

(2) Spare copies of such measurements or photographs may be supplied to any Superintendent of Police or his sub-ordinates within whose jurisdiction there is reason to believe that the person to whom the said measurements or photographs relate has committed an offence or resides.

(3) Measurements of persons mentioned in clause (d) of section 3 shall remain in the custody of the Police until the case is finally decided, and thereafter shall be disposed of in the manner prescribed by section 7.

#### Notes

Section 3 (d) requires the taking of measurements and photographs of persons arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards.

(4) Nothing in this rule shall affect the provisions of section 6.

7. *Custody and disposal of photographs and measurements taken under section 4.*—When a Magistrate of the first class directs under section 4 that any person shall allow his measurements or photographs to be taken, the measurements or photographs together with the negatives and all copies thereof shall be handed over to the Magistrate giving such direction, and shall remain the property of the Court, or otherwise used as the Court may deem fit, and shall, subject to the provisions of section 6, be disposed of finally in such manner as the court may order.

*Notes*

The destruction of measurement and photographs etc. on acquittal is controlled by section 6 of the Act which reads as under:—

Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (Both negatives and copies) so taken shall, unless the Court or (in a case where such person is released without trial) the District Magistrate or Sub-Divisional Magistrate for reasons to be recorded in writing otherwise directs be destroyed or made over to him.

**PUBLICATION IN POLICE GAZETTE**

8. *Reproduction of photos and measurements in Police Gazette.*—The Superintendent of Police, C. I. D. Rajasthan Jaipur, may in his discretion, order the reproduction in the Police Gazette of photographs and measurements taken under section 3. All Photo-Zinco Blocks prepared in connection with such publication shall remain in charge of the Superintendent of Police, C.I.D. Rajasthan, Jaipur.

By Order of the Governor,  
MOHAN MUKERJI,  
*Secretary to the Government.*

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*Rules and Notifications under*

INDIAN LAW REPORTS ACT, 1875. (CENTRAL  
ACT, No. OF 1875)

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*Rules and Notifications under*

INDUSTRIAL (DEVELOPMENT AND REGULATION)  
ACT, 1951. (LXV OF 1951)

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# The Rajasthan Cement Control Order, 1961

Industries 'A' Department

## ORDER

Jaipur, August 12, 1961

No. F. 4(ii) (1) Ind./A/Supp./61.—In exercise of the powers conferred by section 18-G of the Industries (Development and Regulation) Act 1951 (LXV of 1951) read with the Government of India, in the Ministry of Commerce and Industries Order No. Cem. 15(4)/61 S.O./1170 IDRA/18G/58/61, dated the 19th May, 1961 and with the prior concurrence of the Central Government, the State Government hereby makes the following order, namely:—

1. *Short title and extent.*—(1 This order may be called the Rajasthan Cement Control Order, 1961

(2) It extends to the whole of the State of Rajasthan

2. *Definitions.*—In this Order, unless Context required otherwise:—

- (i) "Cement" means any variety of cement manufactured in India and includes rapid hardening cement, low heat cement and blast furnace slag cement, but does not include water-proof cement, and white- and coloured cement (other than grey portland cement or any other variety of cement which the State Government may, by notification in the official Gazette, specify as not being cement for the purpose of this Order;
- (ii) "Form" means a form appended to this Order;
- (iii) "Licence" means a licence granted under the provisions of this Order;
- (iv) "Licensee" means a person holding a licence;
- (v) "Licensing Authority" means the Collector and includes any other persons empowered by the State Government to exercise all or any of the functions of the licensing authority under this Order;
- (vi) "Offer for sale" includes a reference to an intimation by a person of a proposal by him for the sale of any cement, made by the publication of a price list, by exposing the cement for sale indicating the price, by furnishing of a quotation, or otherwise howsoever;
- (vii) "Permit Officer" means (a) the Regional Cement Officer, State Trading Corporation of India Limited, New Delhi or any person authorized by him in this behalf, or

- (b) The Director of Industries and Supplies, Rajasthan, Jaipur or any person authorized by him in this behalf, or
  - (c) The Collector or any other authority specially appointed in this behalf by the Collector within the local limits of his jurisdiction.
  - (d) Pradhan of Panchayat Samiti.
  - (e) Vikas Adhikari.
- (viii) "stockist means a person who deals in cement involving the purchase, sale and storage for sale of cement but does not include a manufacturer of cement.

*Notes.*

Sub-Clause (e) of Clause 2 (vii) and the present forms "D" and "E" have been inserted and substituted vide Industries 'A' Department Notification No. F. 4(ii) (1) Ind. (A) Sup/61 dated July 6, 1962, published in Rajasthan Raj-patra supplement to No. 19 dated August 9, 1962.

3. *Stockists of obtain licence.*—No person shall carry on any business as a stockist except under and in accordance with the provisions of this Order and the terms and conditions of a licence granted to him.

4. *Application for licence.*—Every person desiring to obtain a licence under clause 3 shall make an application in duplicate to the licensing authority in Form 'A'.

5. *Grant and refusal of licence.*—(1) The licensing authority may, for reasons to be recorded in writing, refuse to grant a licence to any applicant and shall forthwith furnish him with a copy of the order so passed.

(2) Where an application for a licence is not refused under sub-clause (1) the licensing authority shall grant the applicant a licence in Form 'B' Every such licence shall be subject to the conditions annexed with that Form.

6. *Power to cancel or suspend.*—(1) A licensing authority may, after giving the licensee an opportunity of being heard, cancel or suspend the licence on any of the following grounds, namely:—

- (a) that the licence has been obtained by the licensee by misrepresentation of material particular;
- (b) that any of the provision of this order or any condition of the licence has been contravened by the licensee.

(2) A copy of the order cancelling or suspending the licence shall be sent to the licensee forthwith.

7. *Appeal.*—Any person aggrieved by an order refusing to grant a licence or cancelling or suspending a licence may, within thirty days from the date of the receipt of a copy of the order, appeal to the State Government, or to the authority empowered in this behalf by the State Government.



8. *Acquisition for sale by stockist.*—No stockist shall acquire cement for sale except under an authorisation in Form 'C' issued by the Regional Cement Officer, State Trading Corporation of India Limited, New Delhi.

9. *Acquisition for use.*—No person requiring cement for his personal use shall acquire cement except under and in accordance with a permit in Form "E" issued by the Permit Officer.

10. *Application for permit to purchase cement.*—(1) Any person desiring to purchase cement for his personal use may make an application in duplicate in Form 'D' to the Permit Officer.

(2) On receipt of an application under sub-rule (1) the Permit Officer may issue a permit in Form 'E' for the quantity approved for such supply. Every such permit shall be subject to the conditions annexed with that Form.

11. *Revocation of permit.*—(1) The Permit Officer may, after giving the permit holder an opportunity of being heard, at any time revoke the permit issued under clause 10 for any of the following reasons, namely:—

- (a) that the permit has been obtained by the permit holder by misrepresentation of a material particular;
- (b) that any of the provisions of this Order or any term or condition of the permit has been contravened by the permit holder.

(2) A copy of the order revoking the permit shall be sent to the permit holder forthwith.

(3) The permit holder on receipt of the copy of order under sub-clause (2) shall forthwith surrender the permit to the Permit Officer.

12. *Appeal.*—Any person aggrieved by an order of revocation of permit under clause 11 may within thirty days from the date of receipt of the copy of the order, appeal to such authority as the State Government may specify in this behalf.

13. *Disposal of Cement.*—Except with the prior permission of the authority who issued the authorisation or permit, no person shall dispose of cement in any manner other than specified in the authorisation or permit.

14. *Power to prohibit removal*—The licensing authority may order any stockist or other person holding stocks of cement not to remove or permit removal of any cement from the place where cement is stocked or kept except with the written permission of the licensing authority.

15. *Prohibition of selling or buying at higher price*—No person shall sell or offer for sale and no person shall buy cement at a price higher than that fixed under any order made under section 18G of the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

16 *Power of entry, search etc.*—Any officer authorised in this behalf by the State Government may, with such assistance, if any, as he may consider necessary:—

(a) Enter, inspect, and search any place or premises, vehicle, vessel or aircraft in which he has reason to believe that any contravention of the provisions of this order has been, is being or is about to be made:

Provided that in the exercise of this power the officer shall have regard to the social and religious customs of the occupant of such place or premises:

Provided further that if any such place or premises is found locked or unoccupied or unattended by or on behalf of the owner or occupier, the same may, in the presence of two witnesses, be broken open and entered upon for all or any of the aforesaid purposes;

(b) require the owner, occupier or any other person in charge of such place or premises or vehicles, vessel or aircraft to produce any books, accounts or other documents relating to trade in cement;

(c) take or cause to be taken extracts from or copies of any documents relating to trade in cement which are produced before him or are otherwise found; and

(d) search, seize and remove stocks of cement held in contravention of the provision of this Order.

17. *Exemption.*—The State Government may, by general or special order and with the prior approval of the Central Government exempt, subject to such conditions as may be specified in the order, any person or class of persons from all or any of the provisions of this Orders.

### FORM 'A'

( See Clause 4 )

Application for a stockists licence under the Rajasthan Cement Control Order, 1961 for dealing in cement.

1. Name of applicant (in block letters).
2. Father's name.
3. Full address of applicant.
4. Description of the premises where the business is to be carried on and for which the applicant desires to be licensed.
5. How long has the applicant been trading in cement.
6. Quantities of cement handled annually during the past three years.

I/we have carefully read the conditions of the licence in Form B' appended to the Rajasthan Cement Control Order, 1961 and I/we agree to abide by them.

I/we certify that the above statements are correct.

Signature of applicant.

Date.....

Place.....

### FORM 'B'

#### *Licence (See clause 5)*

Subject to the provisions of the Rajasthan Cement Order, 1961 and to the terms and conditions of this licence.....is/are hereby authorised to carry on business as a stockist.

2. The licensee (s) shall sell or store for sale, cement at the following places:—

.....	.....
.....	.....
.....	.....

(A separate licence shall be obtained for each place)

3. The licensee shall not acquire any cement for sale except under an authorisation in Form 'C' issued by.....

4. The licensee shall maintain a register of daily accounts for sale of cement showing correctly:—

- (a) the opening stock on each day;
- (b) the quantities received on each day; showing the place of origin;
- (c) the quantities sold or otherwise removed on each day;
- (d) the closing stock on each day.

5. The licensee shall also maintain another register giving details of the transactions from day to day under the following heads:—

- (1) Date of transaction.
- (2) Name and address of purchaser.
- (3) Quantity sold.
- (4) The number and date of the permit or authorisation against which the cement is sold.
- (5) Signature of the purchaser.

6. The licensee shall submit to the licensing authority and the Regional Cement Officer concerned a true and correct return in Form 'F' of stocks, receipts and deliveries of cement during the month at the close of each calendar months.

7. The licensee shall issue to every customer a correct receipt or invoice, as the case may be, giving his own name, address and license number, the name of the persons to whom sold, date of transaction and quantity sold and the price charged, and shall keep a duplicate of the same available for inspection.

8. The licensee shall prominently display at each of the places mentioned in paragraph 2 a correct list, written in the language of the locality and in English of the prices of cement fixed from time to time by an order made under section 18G of the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

9. The licensee shall give all facilities at all reasonable times to the Regional Cement Officer, the licensing authority and to the officer authorised by the State Government for the inspection of his stores and accounts at any place used by him for the storage or sale of cement.

10. The licensee shall comply with any directions that may from time to time be given by the State Government and by the licensing authority about the maintenance of accounts of the sale or stoage of cement.

Signature of Licensing Authority.

The..... 1961

### FORM 'C'

(See Clause 8)

The State Trading Corporation of India Ltd.

### OFFICE OF THE REGIONAL CEMENT OFFICER

For.....

..... (Name of State).

Authorisation No. R. (E).

Period.

Name of suppliers.

This authorises you to sell the undermentioned quantity. The sale will be a direct deal between yourself and the purchaser. The Government undertakes no responsibility of any nature whatsoever.

Name and address of persons in whose favour authorisation is issued	Name of the cement factory stockists required to supply cement	Quantity	Name of Railway station to which cement is to be booked	Remarks.
---	--	----------	---	----------

Date is of the purpose for and the place at which cement will be consumed.

Reference Copy to

Regional Cement Officer.

*Note:*—This authorisation is issued subject to the conditions mentioned in the application and those given below.

### CONDITIONS

1. Order must be booked against this authorisation with the suppliers within 30 days of its issue after which period the authorisation will cease to be valid.

2. The full quantity of the cement released will be used only for the purpose and at the place stated in the authorisation and no part of it will be used for any other work or at any other place or given or sold to any other party.

3. This authorisation must be returned to the authority issuing it, if it ceases to be valid or if the purpose for which it has been issued ceases to exist.

4. This authorisation is not transferable except with the approval of the issuing authority.

5. Any breach of these conditions will amount to misrepresentation and obtaining cement by false pretences. In addition to any other action all further supplies will be immediately cancelled or stopped.

6. The issuing authority can revoke the authorisation at any time and the holder shall in the case forthwith surrender the authorisation.

7. Orders booked against this authorisation may also be cancelled by the issuing authority at any time.

### FORM 'D'

( See Clause 10 )

## APPLICATION FOR A PERMIT TO ACQUIRE CEMENT FOR PERSONAL USE (TO BE SUBMITTED IN DUPLICATE).

To

.....  
.....  
.....

1. Full name of the applicant.
2. Father's name.
3. Full address of the applicant—Name of village/panchayat Samiti/Town Tehsil/Distt may be mentioned.
4. Description of the purpose for which the cement is required. The use to which the structure thus erected will be put may please be stated.
5. The exact situation of the structure (s) on erection, reerection, extension or alterations to which the cement now applied for is to be used.
6. Total of cement required for the completion of the entire work, or in case of incomplete work, for work remaining to be completed on the date of application (exclusive of cement already collected on site).

Month      Tons required

Total.....

7. Is any cement for use on the purpose mentioned above collected on site ? If so, give details and quantities of such cement and quantities and how and when it was acquired.
8. Have any permits for cement for use on construction, etc. of any other building issued in your favour previously. If so, give details.
9. Is sanction of the municipality or local authority obtained for the purpose.

Dated.....

Signature of the owner of the  
Proposed work.

Certified that Quantities of cement are required for completion of the proposed work, described above in the application.

It is also certified that the information supplied in the application is correct to the best of my/our knowledge and belief.

Signature of Architect/Engineer/  
Overseer/Sarpanch/M. L. A./M. P./  
Member of Municipal Council/  
Board/Any Gazetted Officer.

### FORM 'E'

(See Clause 9)

Permit No:

Valid until

Date

### PERMIT

To acquire cement under the Rajasthan Cement Control Order, 1961.

Name

Address

1. The above mentioned person is hereby authorised to acquire the total quantity of cement of the controlled category as detailed below from M/S. .. .. .

.....Tonnage  
Total Tons.....

(in words).....

2. This acquisition is authorised only for the purpose mentioned in the application from the applicant.

3. The issue of this permit is subject to the general conditions printed overleaf and to the following special condition:—

(1) Cement released under this permit only be used for proposed works.

Signature of the Permit Officer.

**IMPORTANT.**

This portion of the permit must be filled up immediately the delivery has been completed and then sent to the Issuing Authority.

2. Delivery of the cement authorised under Permit No: \_\_\_\_\_ was completed on ... .. 196.

3. Delivery of Cement under this permit shall be given to the person mentioned above and not to his agent unless on production of a letter of authority by the person above named.

Signature  
(Registered Stockholder)

**GENERAL CONDITION:**

1. This permit is not transferable.

2. The Permit Officer, may, at any time, revoke this permit and the holder must surrender the permit forthwith to that officer when it is so revoked.

3. The cement the acquisition of which is authorised by this permit, must not be used for any purpose other than the purpose mentioned in the permit.

4. This permit must be returned at once to the Permit Officer if the purpose for which it has been issued ceases to exist.

5. The cement will be subject to transfer if these are not utilised by the Permit holder' within a period of three months from the date of acquisition thereof.

6. The completion of work for which Cement has been released must be reported to the Permit Officer stating the quantity used and the balance, if any, will be subject to transfer as may be directed by that officer.

**FORM 'F'**

Return of stocks, receipts and deliveries of cement for the months ..... ending ... .. 196 .

Name and address of the licensee .....

Opening stocks	Quantity received during the months	Quantity sold under permit issued by officer of the State Government	Quantity sold under Regional Cement Officers authorisation	Closing Balance	Remarks
1	2	3	4	5	6

By Order and in the name of the  
Governor of Rajasthan,  
A.K. ROY,  
Secretary to the Government.

*Notifications under*

**RAJASTHAN CEMENT CONTROL ORDER 1961.**

*Published in Raj. Raj-patra part I (b) dated May 3, 1962, at page 9 :*

Industries 'A' Department

*Jaipur, April 20, 1962.*

No. F. 4 (ii) (1) Ind (A) Sup/61.—In exercise of the powers conferred by clause 16 of the Rajasthan Cement Control Order, 1961, the Government of Rajasthan hereby authorise the following matters in this behalf :—

1. The Director of Industries & Supplies, Rajasthan, Jaipur.
2. The Collectors & District Magistrates.
3. Sub-Divisional Officers or Asstt. Collectors and Magistrates dealing with supply work in the office of the Collectors, as the case may be.

By Order & in the name of the Governor  
of Rajasthan.

P. N. SETH,

Deputy Secretary to the Government.

*Published in Raj Raj-patra part I (b) dated July 5, 1962, at page 33 :*

Industries 'A' Department

**NOTIFICATION**

*Jaipur, June 15, 1962.*

No. F. 4 (ii)(1) Ind (A)/Sup 61.—In exercise of the powers conferred by sub-clause (V) of clause 2 of the Rajasthan Cement Control Order, 1961, Government of Rajasthan is pleased to delegate all powers of Licensing Authority to the Director of Industries & Supplies Rajasthan, Jaipur.

By Order,

P. N. SETH,

Deputy Secretary to Government.



*Notifications under*

## **Industrial (Development & Regulation) Act, 1951.**

*Published in Raj Raj-patra part I (b) dated July 27, 1961 at page 109 :*

Industries (A) Department  
NOTIFICATION

*Jaipur June 14, 1961.*

No. F. 4 (i) (10) Ind. (A) Supp/60.—In exercise of the powers conferred by sub-clause (3) of clause 6, "The Cement Control Order, 1958" (published in part II section 3 sub-section (ii) of the Gazette of India, extraordinary dated the 30th June, 1958) read with sub-section (2) of the section 25 of the Industries (Development and Regulation) Act, 1951 (Central Act No. 65 of 1951) and in supersession of this Department Notification No. D. 12780/F. 24 (18)/1/56, dated the 8th October, 1956, the State Government hereby orders that except the price for sale in retail, the price for indigenous and imported cement packed in bags chargeable by the cement dealers in Rajasthan shall be such as determined for fixed by the Collector of the District concerned, taking into account the following factors, namely:—

1. F. O. R. destination price fixed by the Government of India from time to time.
2. Other incidental charges not exceeding the following:—
  - (a) Unloading, stacking and loading into vehicles at the Railway Station. Rs. 2.50 per metric tons.
  - (b) Transport charges from Railway Station to Godown.
    - (1) If the distance does not exceed 4 miles.....
      - Rs. (i) For 1st mile Rs. 1.25 per metric ton.
      - (ii) For 2nd mile Rs. 1.00 per metric ton.
      - (iii) For 3rd and 4th miles Re. 0.75 nP per metric tons.
    - (2) If the distance exceeds four miles.
      - (i) 2 nP. per 37 Kg. per mile for cemented tarred or metal roads.
      - (ii) 2 nP. per 37 Kg. per mile for gravel or kankar roads.
      - (iii) 3 nP. per 37 Kg. per mile for tracks fair weather and other roads not included in the above.
  - (c) Unloading and stacking into godown. Rs. 1.25 per metric ton.
  - (d) Godowns rent, shortage and profit. Rs. 6.25 per metric ton.
  - (e) Actual sales tax and Octroi duty paid by the dealers and not included in the bills of the suppliers.

There shall be one rate for one place (town or city).

By Order of the Governor,

P. N. SETH,

Dy. Secretary to the Government.

*Published in Raj Raj-patra part IV (c) dated March 1, 1962 at page 648 :*

Industries (A) Department  
NOTIFICATION

*Jaipur, January 8, 1962.*

No. F. 4 (i) (3) Ind. (A) Supp./60.—In exercise of the powers conferred by sub-clause 3 of clause 6, of the Cement Control Order published in the Part II, Section 3—of the Gazette of India, Extraordinary dated the 31st October, 61), read with sub-clause 2 of the section 25 of the Industries (Development and Regulation) Act, 1951 (Central Act, No. 65 of 1951), and in supersession of this

department Notification No. F. 4 (i) (10) Ind./A/Sup./60, dated 14-6-1961, the State Government hereby orders that except the price for sale in retail, the price for indigenous and imputed cement packed in bags chargeable by the cement dealers in Rajasthan shall be such as determined and fixed by the Collector of the district concerned, taking into account the following factors, namely:—

1. F.O.R. Destination. price fixed by the Government of India from time to time.

2. Other incidental charges not exceeding the following:—

(a) Unloading, Stacking and loading into vehicles at the Railway Station. Rs. 2.50 per M/tonne.

(b) Transport charges from Railway Station to Godown:—

(1) If the distance does not exceed 4 miles:—

(i) for 1st mile Rs. 1.25 per M/tonne.

(ii) for 2nd mile Rs. 1.00 per M/tonne.

(iii) for 3rd and 4th miles Rs. 0.75 per M/tonne.

(2) If the distance exceeds four miles:—

(i) 2 nP. per 37 kg. per mile for cemented tarred or metal roads.

(ii) 2 nP. per 37 kg. per mile for gravel or Kankar roads.

(iii) 3 nP. per 37 kg. per mile for tracks fair weather and other roads not included in the above.

(c) Unloading and stacking into godown Rs. 1.25 per M/tonne.

(d) Godown rent, shortage and profit. Rs. 6.25 per M/tonne.

(e) Actual Sales tax and octroi duty paid by the dealers and not included in the bills of the suppliers.

There shall be one rate for one place (town or city).

By Order of the Governor,

P. N. SETH,

Deputy Secretary to the Government

Published in *Raj Raj-patra part I (b)* dated April 19, 1962 at page 1 :

Industries 'A' Department

NOTIFICATION

*Jaipur, April 19, 1962*

No. F. 2 (101) Ind (A) 60.—Whereas a notified order under section 18-A of the Industries (Development and Regulation) Act, 1951 (Central Act No. 65 of 1951), in respect of the Edward Mills Company Limited, was issued by the Central Government vide Notification No. 14 (7)-Tex (A)/59, dated the 2nd April, 1960;

And whereas the State Government had declared the said Edward Mills Company Limited in respect of which the aforesaid notified order was in force, as a Relief Undertaking;

And whereas the above notified order has been cancelled by the Central Government vide their Notification No 14 (7)-Tex (A)/59, dated 28th September, 1961;

Now, therefore, in exercise of the powers conferred by sections 3 and 4 of the Rajasthan Relief Undertakings (Special provisions) Act, 1961 (Rajasthan Act No. 9 of 1961) the State Government hereby declares that the name of the said Industrial Undertaking, namely; The Edward Mills Company Limited appearing in this Department Notification of even number, dated 26th December, 1960 shall be deleted.

By Order of the Governor,

P. N. SETH,

Dy. Secretary to Government.

# Industrial (Development & Regulation) Act, 1951

Industries (A) Department

## NOTIFICATION

Jaipur, January 28, 1963

*No. F. 4 (ii) (1) Ind (A) Sup /61*—In exercise of the powers conferred under section 18-G of the Industrial (Development and Regulation) Act, 1951 (LXV of 1951) and with the prior concurrence of the Central Government the State Government hereby make the following amendment in the Rajasthan Cement Control Order, 1961 published in extraordinary Gazette dated 14-8-61 under No. F. 4 (ii) (1) Ind. (A) Sup /61 dated 12-8-61 namely:—

In the said order—

(i) In clause 10 (1) the words “in duplicate” occurring between the words “application” and “in form D” may be deleted.

(ii) In Form ‘D’ an annexure to the said order the words “in duplicate” occurring therein may also be deleted.

By Order of the Governor,  
P. N. SETH,

Deputy Secretary to the Government.

[Published in Raj. Rajpatra Feb. 7 1963 at Page 918]

Industries (A) Department

Jaipur, August 28, 1965.

*Notification No. F. 4 (ii) (1) Ind /A/Sup /61*—In exercise of the powers conferred under section 18G of the Industrial (Development and Regulation) Act, 1951 (LXV of 1951) and with the prior concurrence of the Central Government, the State Government hereby makes the following amendments in the Rajasthan Cement Control Order, 1961, first published in Extraordinary Gazette, dated 14-8-61 under No. F. 4 (ii) (1) Ind./A/Sup./61., dated 12-8-61 namely:—

In the said order—

(i) In Form ‘B’ under clause 5 of the said order the following sub-para 3 (a) after para 3 be added:—

“3 (a) The Licensee shall not sell any Cement without permission in writing from the permit Officer”.

(ii) In Form ‘B’ under clause 5 of the said order the words “and details of permits, if any” may be inserted between the words “Charged” and “and shall” occurring in the fifth line of para 7 of the Form ‘B’.

(iii) In Form ‘B’ under clause 5 of the said order the word “Hindi” may be substituted for the words “Language of the locality” in para 8 of the Form ‘B’.

[Pub. in Raj. Gaz. 4 (Ga) Dated 20-4-65 Page 311 (70)]

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*Rules and Notifications under*

INDUSTRIAL DISPUTES ACT, 1947. (CENTRAL ACT,  
14 OF 1947).

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# RAJASTHAN INDUSTRIAL DISPUTES RULES, 1958

## INDUSTRIES (C) DEPARTMENT

(Labour Section)

### NOTIFICATION

Jaipur, June 4, 1958

No. F.I. (44) LAB/56.—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the State Government hereby makes the following Rules the same having been previously published, namely:—

## RAJASTHAN INDUSTRIAL DISPUTES RULES, 1958

### Notes.

Section 38 of the Industrial Disputes, Act, 1947 authorises the appropriate Government to make rules for the purpose of giving effect to the provisions of the Act. Sub-section (2) of section 38 requires that, without prejudice to the Generality of this power, such rules may provide for all or any of the following matters:—

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (a) the powers and procedure of Conciliation Officers, Boards, Courts, Labour Courts, Tribunals and National Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards ;
- (aa) the form of arbitration agreement, the manner in which it may be signed by the parties, the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;
- (aaa) the appointment of assessors in proceedings under this Act;
- (b) the constitution and functions of and the filling of vacancies in Works Committees and the procedure to be followed by such Committees in the discharge of their duties;
- (c) the allowances admissible to members of Courts and Boards and presiding officers of Labour Courts, Tribunals and National Tribunals and to assessors and witnesses;
- (d) the ministerial establishment which may be allotted to a Court, Board, Labour Court, Tribunal or National Tribunal and the salaries and allowances payable to members of such establishments;
- (e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;
- (f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court, Labour Court Tribunal or National Tribunal;
- (g) any other matter which is to be or may be prescribed.

Sub-section (3) of section 38 of the Act further provides that rules framed under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

The words "appropriate Government" have been defined, in clause (a) of section 2 of the Act, as under:—

(a) "appropriate Government" means—

- (i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway

company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a banking or an insurance company, a mine, an oil field, or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the State Government :

The present rules have been framed by the State Government of Rajasthan in exercise of the powers conferred on the appropriate Government as above.

#### Preliminary.

1. *Title and application.*—(1) These rules may be called the Rajasthan Industrial Disputes Rules, 1958.

(2) They shall come into force on such date as the State Government may by notification in the Official Gazette appoint in this behalf.

#### Notes.

These rules came into force on first December, 1958 vide Industries (c) Department (Labour Section) Notification No. F.1. (44) Lab/56 dated November 8th, 1958 published in Rajasthan Rajpatra, part IV (c) dated 27/11/58.

2. *Interpretation.*—In these rules, unless there is any thing repugnant in the subject or context:—

- (a) "Act" means the Industrial Disputes Act, 1947 (14 of 1947);
- (b) "Chairman" means the Chairman of a Board or Court or if the Court consists of one person only, such persons;
- (c) "Committee" means a Works Committee constituted under sub-section (1) of section 3 of the Act;
- (d) "Form" means a form in the Schedule to these rules;
- (e) "Section" means a section of the Act;
- (f) With reference to clause (g) of section 2 it is hereby prescribed that in relation to an industry carried on by or under the authority of a Department of the State Government, the Officer-in-Charge of the Industrial establishment shall be the "employer" in respect of that establishment.

#### PART I.

Procedure for reference of industrial disputes to Board of conciliation Courts of Enquiry, Labour Courts, Industrial Tribunals or National Tribunals

#### Notes

Sub-section (1) of section 10 of the Act requires the reference of industrial disputes to Boards, Courts or Tribunals. The sub-section reads as under:—

(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing:—

- (a) refer the dispute to a Board for promoting a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or
- (c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or
- (d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication :

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred work men, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):

Provided further that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

Sub-section (2) of the same section requires that,

(2) When the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, Labour Court, Tribunal or National Tribunal the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

Rules 3 and 4 in this part prescribe the procedure for making applications under sub-section (2) of section 10 of the Act. The rules 5 and 6 in this part prescribe the steps to be taken by the Government while making a reference as required under sub-section (1) of section 10 of the Act.

2A. (1) The Register of representative unions shall be in form 1, appended to these rules.

(2) The application for registration of a union as a representative union shall be in form 2, appended to these rules.

2B. Every union approaching the Registrar appointed under section 3A of the Act, for Registration as a representative union under section 9 D of the Act, shall be required to deposit a fee of Rs. along with such application for registration.

2C. (1) For ascertaining the membership of unions for the purposes of section 9E, 9F, 9G or 9H, the Registrar shall hold an inquiry in the manner hereafter provided:—

(2) The Registrar shall fix a date for holding an inquiry to ascertain such membership and shall give fifteen days' notice thereof to the union or unions concerned.

(3) On receipt of such notice, every such union may submit its objections, if any, to the Registrar in writing in duplicate and shall also produce before the Registrar, the following documents:—

(a) Membership Register;

(b) Counterfoils of receipts of subscription for three calendar months immediately preceding the calendar month, in which the application is made;

(c) Minute Books;

(d) Cash Book;

(e) Bank Pass Book, if any;

(f) An audited statement of membership for each of the three calendar months, immediately preceding the calendar months, in which the application is made; and

(g) Such other documents as the Registrar may, from time to time; direct during the course of an inquiry.

(4) Every such objection shall be accompanied by a deposit of Rs. 5/-.

(5) Where the union, to whom notice has been given under sub-rule (2), fails to be present before the Registrar on the date fixed for the inquiry or fails to produce the documents, as required by sub-rule (3), then:—

(a) If such union is an applicant, the Registrar may dismiss the application; and

(b) If such union is not an applicant the Registrar may produce with the inquiry *ex parte*:

Provided that on sufficient cause being shown by the union, whose application has been dismissed, the Registrar may set aside the order of dismissal and fix a date for holding the inquiry.

(6) The documents produced at the inquiry, by the union shall be opened to inspection to other unions, who may be party to the inquiry, for a period of ten days from the date of their production or for such other period as the Registrar may allow.

(7) The Registrar may adopt such sampling method as he may deem fit in verifying the membership-register of union

(8) Where in respect of objections raised against the membership of a union, the number of witnesses to be examined is very large, the Registrar may, examine such number of witnesses as he may determine, by adopting such sampling method as the Registrar may deem fit. The Registrar may, with the consent of the parties, examine the witnesses in camera.

(9) If, in the course of the inquiry, the Registrar comes to a conclusion that an objection raised against the membership of the union was frivolous or vexatious, he may impose a fine not exceeding Rs. 5/- for every such objection.

2D On being satisfied that the application submitted by an applicant union is perfectly in order, the Registrar shall issue a certificate to such union in form 3 appended to these rules.

2E. The application and fee under section 9G of the Act, shall be the same, as prescribed under Rule 2A (2) and 2B above.

2F. An application made under section 9G shall be sent for publication in the State Gazette immediately on receipt in the office of the Registrar in form 4, appended to these rules, so that it is brought to the notice of all concerned not less than fourteen days before the expiry of the period of notice prescribed under section (1) of section 9G.

2G. Every order passed under section 9E or section 9F or section 9G and every order passed in appeal under section 9I shall be published in the State Gazette, for information of the concerned persons.



3. *Application*.—An application under sub-section (2) of section 10 for the reference of an industrial dispute to a Board, Court, Labour Court, Tribunal or National Tribunal shall be made in form A and shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of Rajasthan, Labour Department, Jaipur. The application shall be accompanied by a Statement setting forth:—

- (a) the parties to the dispute;
- (b) the specific matters in disputes;
- (c) the total number of workmen employed in the undertaking affected;
- (d) an estimate of the number of workmen affected or likely to be affected by the dispute; and
- (e) the efforts made by the parties themselves to adjust the dispute.

4. *Attestation of application*.—The application and the statement accompanying it shall be signed.

- (a) in the case of an employer by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the Corporation;
- (b) in the case of workmen, either by the President and Secretary of State union of the workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

5. *Notification of appointment of Board, Court, Labour Court, Tribunal or National Tribunal*.—The appointment of a Board Court, Labour Court, or Tribunal together with the names of persons constituting the Board, Court, Labour Court or Tribunal shall be notified in the Official Gazette.

6. *Notice to parties to nominate representative*.—(1) If the Government proposes to appoint a Board, it shall send a notice in form B to the parties requiring them to nominate within a reasonable time persons to represent them on the Board.

(2) The notice to the employer shall be sent to the employer personally, or if the employer is an incorporated company or a body corporate, to the agent, manager or other principal officer of such company or body.

(3) The notice to the workmen shall be sent:—

- (a) in the case of workmen who are members of a trade union, to the President or Secretary of the trade union; and
- (b) in the case of workmen who are not members of a trade union, to any one of the five representatives of workmen

who have attested the application made under Rule 3; and in this case a copy of the notice shall also be sent to the employer who shall display copies thereof on notice boards in a conspicuous manner at the main entrance to the premises of the establishment.

## PART II

### Arbitration Agreement.

#### *Notes.*

The rules in this part have been framed for putting into effect the requirement of sub-section (1) and (2) of section 10 A of the Act. The sub-sections read as under:—

(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

6A. (1) The Registrar shall maintain a register for registering submissions (Agreements) sent to him, under sub-section (2) of section 10B.

(2) The Registrar shall cause such submissions to be published in the Official Gazette after it has been registered with him.

6C. The Registrar shall maintain a register for entering awards received under sub-section (1) of section 10I of the Act, in form 5, appended to these rules.

7. *Arbitration Agreement.*—An arbitration agreement for the reference of an industrial dispute to an arbitrator or arbitrators shall be made in form C and shall be delivered personally or forwarded by registered post in triplicate to the secretary to the Government of Rajasthan, Labour Department, Jaipur, the Labour Commissioner Rajasthan, Jaipur and the Conciliation Officer concerned. The agreement shall be accompanied by the consent, in writing of the arbitrator or arbitrators.

8. *Attestation of the Arbitration Agreement.*—The arbitration agreement shall be signed—

- (a) in the case of an employer, by the employer himself or when the employer is an incorporated Company or other body corporate, by the agent, manager, or other principal officer of the Corporation;
- (b) in the case of workmen, either by the President and Secretary of a trade union of the workmen or by the five

representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

### PART III

**Powers, Procedure and duties of Conciliation Officers, Boards, Courts, Labour Courts, Tribunals and Arbitrators.—**

#### Notes.

Rules 9, 10, 11 and 12 in this part prescribe the procedure for proceedings before Conciliation Officers while performing duties under Section 12 of the Act. Section 12 reads as under:—

(1) Where any industrial dispute exists or is apprehended, the Conciliation Officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(2) The Conciliation Officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof, and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Conciliation Officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, Labour Court, Tribunal or National Tribunal it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government :

Provided that the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.

Sub-section (1) of Section 11 requires that,—

(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.

The rules 13 to 30 prescribe the procedure which such authorities as referred in this sub-section are to follow in the proceedings under this section.

Sub-section (3), (4) and (5) of section 11 of the Act, reading as under also prescribe the procedure and powers of such authorities.

(3) Every Board, Court, Labour Court, Tribunal and National Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely—

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) compelling the production of documents and material objects ;
- (c) issuing commissions for the examination of witnesses ,
- (d) in respect of such other matters as may be prescribed ;

and every inquiry or investigation by a Board, Court, Labour Court, Tribunal and National Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (XLV of 1850).

(4) A Conciliation Officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the Conciliation Officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, (Act V of 1908), in respect of compelling the production of documents.

(5) A Court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.

9. *Conciliation proceedings in public utility service.*—The Conciliation Officer, on receipt of a notice a strike or lock-out given under rule 71 or 72, rule shall forthwith arrange to interview both the employer and the workmen concerned with the dispute at such places and at such times as he may deem fit and shall endeavour to bring about a settlement of the dispute in question.

10. *Conciliation proceedings in non public utility service.*—Where the Conciliation Officer receives any information about an existing or apprehended industrial dispute which does not relate to public utility service and he considers it necessary to intervene in the dispute, he shall give formal intimation in writing to the parties concerned declaring his intention to commence conciliation proceedings with effect from such date as may be specified therein.

11. The Conciliation Officer may hold a meeting of the representatives of both parties jointly or of each party separately.

12. The Conciliation Officer shall conduct the proceedings expeditiously and in such manner as he may deem fit.

13. *Place and time of hearing.*—The sitting of a Board, Court, Labour Court, Tribunal or of an Arbitrator shall be held at such times and places as the Chairman or the Presiding Officer or the Arbitrator, as the case may be, may fix and the Chairman, Presiding Officer or Arbitrator, as the case may be, shall inform the parties of the same in such manner as he thinks fit.

14. *Quorum for Boards and Courts.*—The quorum necessary to constitute a sitting of a Board or Court shall be as follows:—

- |  |                |
|--|----------------|
| (i) In the case of a Board—  | <i>Quorum.</i> |
| where the number of members is 3 ....                              | 2              |
| (ii) In the case of a Court—                                       |                |
| where the number of members is not more than 2                     | 1              |
| where the number of members is more than 2 but less than five .... | 2              |

15. *Evidence.*—A Board, Court, Labour Court, Tribunal or an Arbitrator may accept, admit or call for evidence at any stage of the proceedings before it/him and in such manner as it/he may think fit.

16. *Administration of oath.*—Any member of a Board or Court or Presiding Officer of a Labour Court, Tribunal or an arbitrator may administer an oath.

17. *Summons.*—A summon issued by a Board, Court, Labour Court or Tribunal shall be in Form D and may require any person to produce before it any books, papers or other documents and things in the possession of or under the control of such person in any way relating to the matter under investigation or adjudication by the Board, Court, Labour Court or Tribunal which the Board, Court, Labour Court or Tribunal thinks necessary for the purposes of such investigation or adjudication.

18. *Service of summons or notice.*—Subject to the provisions contained in Rule 20, any notice, summons, process or order issued by a Board, Court, Labour Court, Tribunal or an arbitrator empowered to issue such notice, summons, process or order, may be served either personally or by registered post.

19. *Description of parties in certain cases.*—Where in any proceeding before a Board, Court, Labour Court, Tribunal or an arbitrator there are numerous persons arrayed on any side such persons shall be described as follows:—

(1) All such persons as are members of any trade union or association shall be described by the name of such trade union or association; and

(2) All such persons as are not members of any trade union or association shall be described in such manner as the Board, Court, Labour Court, Tribunal or arbitrator, as the case may be, may determine.

20. *Manner of service in the case of numerous persons as parties to a dispute.*—(1) Where there are numerous persons as parties to any proceeding before a Board, Court, Labour Court, Tribunal or an arbitrator and such persons are members of any trade union or association, the service of notice on the Secretary, or where there is no Secretary, on the principal officer, of the trade union or association shall be deemed to be service on such person

(2) Where there are numerous persons as parties to any proceeding before a Board, Court, Labour Court, Tribunal or an arbitrator and such persons are not members of any trade union or association, the Board, Court, Labour Court, Tribunal or arbitrator, as the case may be, shall, where personal service is not practicable, cause the service of any notice to be made by affixing the same at or near the main entrance of the establishment concerned.

(3) A notice served in the manner specified in sub-rules (2) shall also be considered as sufficient in the case of such workmen as can not be ascertained and found.

21. *Procedure at the first sitting.*—At the first sitting of a Board, Court, Labour Court or Tribunal the Chairman or the Presiding Officer, as the case may be, shall call upon the parties in such order as he may think fit to state their case.

22. *Board, Court, Labour Court, Tribunal or arbitrator may proceed ex-parte.*—If without sufficient cause being shown,

any party to proceeding before a Board, Court, Labour Court, Tribunal or arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal or arbitrator may proceed as if the party had duly attended or had been represented.

23. *Power of entry and inspection.*—A Board or Court, or any member thereof or a Conciliation Officer, a Labour Court, Tribunal or any person authorised in writing by the Board, Court, Labour Court or Tribunal in this behalf may, for the purposes of any conciliation, investigation, enquiry or adjudication entrusted to the Conciliation Officer, Board, Court, Labour Court and Tribunal under the Act, at any time between the hours of sunrise and sunset and the case of a person authorised in writing by a Board, Court, Labour Court or Tribunal after he has given reasonable notice, enter any building, factory, workshop or other place or premises whatsoever, and inspect the same or any work machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to the subject matter of the conciliation, investigation, enquiry or adjudication.

24. *Power of Boards, Courts, Labour Court and Tribunals.*—In addition to the powers conferred by the Act, Boards, Courts, Labour Courts and Tribunals shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) granting adjournment;
- (c) reception of evidence taken on affidavit;

and the Board, Court, Labour Court or Tribunal may summon and examine any person whose evidence appears to it to be material and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

25. *Assessors.*—Where assessors are appointed to advise a Tribunal under subsection (4) of section 7A or by the Court, Labour Court or Tribunal under subsection (5) of section 11, the Court, Labour Court or Tribunal as the case may be, shall in relation to proceeding before it, obtain the advice of such assessors but such advice shall not be binding on it.

26. *Fees for copies of awards or other documents of Labour Court or Tribunal.*—(1) Fees for making a copy of an award or an order of a Labour Court, Tribunal or any document filed in any proceeding before a Labour Court or Tribunal be charged as follows:—

- (a) for the first 200 words or less, 12 annas;
- (b) for every additional 100 words or fraction thereof, 6 annas

Provided that where an award or order or document exceeds five pages, the approximate number of words per page shall be taken as the basis for calculating the total number of words, to the nearest hundred, for the purpose of assessing the copying fee.

(2) For certifying a copy of any such award or order or document, a fee of Rs. 1/- shall be payable.

(3) Copying and certifying fees shall be payable in cash in advance.

(4) Where a party applies for immediate delivery of a copy of any such award or order of document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.

27. *Decision by majority.*—All questions arising for decision at any meeting of a Board or Court, save where the Court consists of one person, shall be decided by a majority of the votes of the members thereof (including the Chairman) present at the meeting. In the event of an equality of votes the Chairman shall also have a casting vote.

28. *Correction of errors.*—The Labour Court, Tribunal or arbitrator may correct any clerical mistake or error arising from an accidental slip or omission in any award it/he issues.

29. *Right of representatives.*—The representatives of the parties appearing before a Board, Court, Labour Court, Tribunal or an arbitrator shall have the right of examination, cross-examination and of addressing the Board, Court, Labour Court, Tribunal or arbitrator when an evidence has been called.

30. *Proceedings before a Board, Court, Labour Court or Tribunal.*—The proceedings before a Board, Court Labour Court or Tribunal shall be held in public:

Provided that the Board, Court, Labour Court or Tribunal may at any stage direct that any witness shall be examined or its proceedings shall be held in camera.

#### PART IV.

Remuneration of Chairman and members of Courts, Presiding Officers of Labour Courts, Tribunals, Assessors and Witnesses.

##### *Notes.*

The rules in this part have been framed in pursuance of clause (C) of sub-section (2) of Section 38 of the Act.

31. *Travelling Allowance.*—The Chairman or a member of a Board or Court or the Presiding Officer or an Assessor of Labour Court or Tribunal if a non official shall be entitled to draw travelling allowance and hailing allowance for any journey performed by him in connection with the performance of his duties, at the rates admissible and subject to the conditions applicable to a Government servant of the first grade under the Rajasthan Travelling Allowance Rules and Audit Accounts, issued by the Government from time to time.

32. *Fees.*—The Chairman and member of a Board or Court, the Presiding Officer and an Assessor of a Labour Court or Tribunal wherever he is not a salaried officer of Government may be granted such fees as may be sanctioned by the Government in each case.

33. *Expenses of witnesses.*—Every person who is summoned and duly attends or otherwise appears as a witness before a Board, Court, Labour Court, Tribunal or an arbitrator shall be entitled to

an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil courts in this state where the investigation, enquiry, adjudication or arbitration is being conducted .

## PART V.

### Notice of Change.

#### *Notes*

The rules in this part have been framed to put into effect the requirements of section 9A of the Act which reads as under:—

No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice :

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement, award or decision of the Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, XLVIII of 1950; or

(b) where the workmen likely to be effected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the official *Gazette*, apply.

34. *Notice of change.*—Any employer intending to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule shall give notice of such intention in Form E.

35. *Manner of service of notice of change.*—(1) Where there are numerous workmen affected by a notice of change and the majority of such workmen are members of any trade union, the service of notice, by registered post, on the Secretary, or where there is no Secretary on the principal officer of the trade union shall be deemed to be service on all such workmen. The employer shall, at the same time, arrange to exhibit the notice by affixing it to a notice board in the manner specified in sub-rule (2) :

Provided that if the Secretary or the principal officer refused to receive the notice or that for any other reason that notice cannot be served on the Secretary or the principal officer in the ordinary way, the exhibition of the notice in the manner specified in sub-rule (2) shall be deemed to be service on all such workmen.

(2) Where there are numerous workmen affected by a notice of change and the majority of such workmen are not members of any trade union or association the employer shall, where personnel service is not practicable, cause the service of any such notice to be made by affixing the same to a notice board at or near the entrance or entrances of the establishment concerned and the notice shall remain so affixed for period of 21 days. The notice shall be in



English, the regional language and the language understood by the majority of the workmen in the establishment concerned.

(3) A copy of the notice shall simultaneously be forwarded by the employer to the Conciliation Officer and the Labour Commissioner, Rajasthan.

## PART VI.

### Representation of Parties.

#### Notes

Section 36 of the Act reading as under provides for the representation of parties. Rules 36 and 37 under this part deal with the same subject.

(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

- (a) an officer of a registered trade union of which he is a member;
- (b) an officer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;
- (c) where the worker is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

- (a) an officer of a federation of employers of which he is a member;
- (b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;
- (c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceeding under this Act or in any proceedings before a Court.

(4) In any proceeding before a Labour Court, Tribunal or National Tribunal a party to dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Labour Court, Tribunal or National Tribunal as the case may be.

36. *Form of authority under section 36.*—The authority in favour of a person or persons to represent a workman or group of workman or an employer in any proceeding under the Act shall be in Form F.

37. *Parties bound by acts of representative*—A party appearing by a representative shall be bound by the acts of that representative.

## PART VII.

### Works Committee.

#### Notes.

Rules in this part have been framed to provide for the matters referred to in section 3 of the Act reading as under:—

(1) In the case of any Industrial establishment in which one hundred or more workmen are employed or have been employed on any day in preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the

workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (XVI of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

38. *Constitution.*—Any employer to whom an order made under sub-section (1) of section 3 relates shall forthwith proceed to constitute a Works Committee in the manner prescribed in this part.

39. *Number of members.*—The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and classes of workmen engaged in, and to the sections, shops or departments of the establishment :

Provided that the total number of members shall not exceed twenty :

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employers.

40. *Representatives of employer.*—Subject to the provisions of these rules, the representatives of the employer shall be nominated by the employer and shall as far as possible, be official in direct touch with or associated with the working of the establishment.

41. *Consultation with trade unions.*—(1) Where any workman of an establishment are members of a registered trade union, the employer shall ask the union to inform him in writing—

- (a) how many of the workmen are members of the union; and
- (b) how their membership is distributed among the sections, shops or departments of the establishment.

(2) Where an employer has reason to believe that the information furnished to him under sub-rule (1) by any trade union is false, he may, after informing the union, refer the matter to the Conciliation Officer concerned for his decision and the Conciliation Officer after hearing the parties shall decide the matter and his decision shall be final.

42. *Groups of workmen's representative.*—On receipt of the information called for under rule 41, the employer shall provide for the election of workmen's representatives on the Committee in two groups—

- (1) those to be elected by the workmen of the establishment who are members of the registered trade union or unions; and
- (2) those to be elected by the workmen of the establishment who are not members of the registered trade union or unions;

bearing the same proportion to each other as the union members in the establishment bear to the non-members :

Provided that where more than half the workmen are members of the union or any one of the unions, no such division shall be made :

Provided further that where a registered trade union, neglects or fails to furnish the information called for under sub-rule (1) of rule 41 within one month of the date of the notice requiring it to furnish such information, such union shall for the purpose of this rule be treated as if it did not exist :

Provided further that where any reference has been made by the employer under sub-rule (2) of rule 41, the election shall be held on receipt of the decision of the Conciliation Officer

43. *Electoral Constituencies.*—Where under rule 42, the workmen's representatives are to be elected in two groups the workmen entitled to vote shall be divided into two electoral constituencies, the one consisting of those who are members of a registered trade union and the other of those who are not :

Provided that the employer may, if he thinks fit, sub-divide the two electoral constituencies and direct that workmen shall vote in either by groups, sections, shops or departments.

44. *Qualification of candidates for election.*—Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may if nominated as provided in these rules be a candidate for election as a representative of the workmen on the Committee :

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year.

45. *Qualifications for voters.*—All workmen, other than casual employees, who are not less than 18 years of age and those who have put in not less than 6 months service in the establishment shall be entitled to vote in the election of the representative of workmen.

46. *Procedure for election.*—(1) The employer shall fix a date as the closing date for receiving nominations from candidates for election as workmen's representatives on the Committee.

(2) For holding the election, the employer shall also fix a date which shall not be earlier than three days and later than ten days after the closing date for receiving nominations.

(3) The dates so fixed shall be notified at least seven days in advance to the workmen and the registered trade union or unions concerned. Such notice shall be affixed on the notice board or given adequate publicity amongst the workmen. The notice shall specify the member of seats to be elected by the groups, sections, shops or departments and the number to be elected by the members of the registered trade union or unions and by the non-members.

(4) A copy of such notice shall be sent to the registered trade union or unions concerned.

47. *Nomination of candidates for election.*—(1) Every nomination shall be made on a nomination paper in Form G copies of

which shall be supplied by the employer to the workmen requiring them.

(2) Each nomination paper shall be signed by the candidate to whom it relates and attested by at least two other voters belonging to the group section, shop or department, the candidate seeking election will represent and shall be delivered to the employer.

48. *Scrutiny of nomination papers.*—(1) On the day following the last day fixed for filling nomination papers, the nomination papers shall be scrutinised by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected.

(2) For the purpose of sub-rule (1), a nomination paper shall be held to be not valid if— (a) the candidate nominated is ineligible for membership under rule, 44 or (b) the requirements of rule 47 have not been complied with :

Provided that where a candidate or an attesting person is unable to be present at the time of scrutiny, he may send a duly authorised nominee for the purpose.

49. *Voting in election.*—(1) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected.

(2) If in any constituency the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held in such manner as may be convenient for each electoral constituency.

(4) The voting shall be conducted by the employer and if any of the candidates belong to a union such of them as the union may nominate shall be associated with the election.

(5) Every workman entitled to vote at an electoral constituency shall have as many votes as there are seats to be filled in the constituency :

Provided that each voter shall be entitled to cast only one vote in favour of any one candidate.

51. *Officers of the Committee.*—(1) The Committee shall have among its office-bearers a Chairman, Vice-Chairman, a Secretary and a Joint Secretary. The Secretary and the Joint Secretary shall be elected every year.

(2) The Committee shall elect the Chairman and the Vice-Chairman provided that where the Chairman is elected from amongst the representatives of the employers, the Vice-Chairman shall be elected from amongst the representatives of workmen and *vice versa*:

Provided further that the post of the Chairman or the Vice-Chairman, as the case may be, shall not be held by a representative of the employer or the workmen, for two consecutive terms

(3) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from amongst the representatives of the employers, the Joint Secretary shall be

elected from amongst the representatives of the workmen and *vice versa*:

Provided further that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the employer or the workmen for two consecutive years.

52. *Term of Office*.—(1) The term of office of a workmen's representative on the Committee other than a member chosen to fill a casual vacancy shall be two years.

(2) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.

(3) A member who, without obtaining leave from the Committee, fails to attend three consecutive meetings of the Committee shall forfeit his membership.

53. *Vacancies*.—In the event of workmen's representative ceasing to be a member under sub-rule (3) of rule 52 or ceasing to be employed in the establishment or in the event of his resignation, death or otherwise, his successor shall be elected in accordance with the provisions of this part from the same group, section, shop or department to which the member vacating the seat belonged.

54. *Power to co-opt*.—The Committee shall have the right to co-opt in a consultative capacity persons employed in the establishment having particular or special knowledge of a matter under discussion, such co-opt MEMBER shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

55. *Meetings*.—(1) The Committee may meet as often as necessary but not less often than once in three months (a quarter).

(2) The Committee shall at its first meeting regulate its own procedure.

56. *Facilities for meeting, etc.*—The employer shall provide accommodation for holding meetings of the Committee. He shall also provide all necessary facilities to the Committee. The Committee shall ordinarily meet during working hours of the establishment concerned on any working day and the representative of the workmen shall be deemed to be on duty while attending the meeting.

57. *Dissolution of Works Committee*.—The Government, or where the power under section 3 has been delegated to any officer or authority under section 39, such officer or authority may, after making such inquiry as it or he may deem fit, dissolve any works Committee at any time, by an order in writing, if he or it is satisfied that the Committee has not been constituted in accordance with these rules or that not less than two-thirds of the number of representatives of the workmen have, without any reasonable justification failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to functions:

Provided that where a Works Committee is dissolved under this rule, the employer may, and if so required by the Government or, as the case may be, by such officer or authority shall, take steps to re constitute the Committee in accordance with these rules.

### PART VIII.

#### Miscellaneous.

58. *Memorandum of settlement*.—(1) A settlement arrived at in the course of conciliation proceedings or otherwise, shall be in Form 'H'.

(2) The settlement shall be signed by—

- (a) in the case of an employer, by the employer himself or by his authorised agent, or when the employer is an incorporated Company or other body corporate, by the agent, manager or other principal officer of the corporation ;
- (b) in the case of workmen, either by the President and Secretary of a trade union of workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

(3) Where a settlement is arrived at in the course of conciliation proceeding the Conciliation Officer shall send a report thereof to the Central Government together with a copy of the memorandum of settlement signed by the parties to the dispute.

(4) Where a settlement is arrived at between an employer and his workmen otherwise than in the course of conciliation proceeding before a Board or a Conciliation Officer, the parties to the settlement shall jointly send a copy thereof to the Government and the Labour Commissioner, Rajasthan and to the Conciliation Officer concerned.

59. *Complaints regarding change of conditions of service etc.*—(1) Every complaint under section 33 A of the Act shall be presented in triplicate in Form I and shall be accompanied by as many copies of the complaint as there are opposite parties to the complaint.

(2) Every complaint under sub-rule (1) shall be verified at the foot by the workmen making it or by some other person proved to the satisfaction of the Labour Court or Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by references to the numbered paragraphs of the complaint, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which it was signed.

60. *Application under section 33*.—(1) An employer intending to obtain the express permission in writing of the Conciliation Officer, Board, Labour Court or Tribunal as the case may be under sub-section (1) or sub-section (3) of section 33 shall present

an application in Form J in triplicate to such conciliation Officer, Board, Labour Court or Tribunal and shall file along with the application as many copies thereof as there are opposite parties.

(2) An employer seeking the approval of the Conciliation Officer, Board, Labour Court or Tribunal as the case may be of any action taken by him under clause (a) or clause (b) of sub-section (2) of section 33 shall present an application in Form Kin triplicate to such Conciliation Officer, Board, Labour Court or Tribunal and shall file along with the application as many copies thereof as there are opposite parties.

(3) Every application under sub-rule (1) or sub-rule (2) shall be verified at the foot by the employer making it or some other person proved to the satisfaction of the Conciliation Officer, Board, Labour Court or Tribunal to be acquainted with the facts of the case.

(4) The person verifying shall specify by reference to the numbered paragraphs of the application, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(5) The verification shall be signed by the person making it and shall state the date on which and the place at which it was verified.

61. *Protected workmen.*—(1) Every registered trade union connected with an industrial establishment, to which the Act applies, shall communicate to the employer before the 30th September every year, the names and addresses of such of the officers of the union who are employed in that establishment and who, in the opinion of the union, should be recognised as "protected workmen". Any change in the incumbency of any such officer shall be communicated to the employer by the union within fifteen days of such change.

(2) The employer shall, subject to section 33, sub-section (4), recognise such workmen to be "protected workmen" for the purposes in of sub-section (3) of the said section and communicate to the union, writing, in within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workmen recognised as protected workmen.

(3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workmen, admissible for the establishment under section 33, sub section (4), the employer shall recognise as protected workmen only such maximum number of workmen:

Provided that, where there is more than one registered trade union in the establishment, the maximum number shall be so distributed by the employer among the unions that the numbers of recognised protected workmen in individual unions bear roughly the same proportion to one another as the membership figures of

the unions. The employer shall in that case intimate in writing to the President or the Secretary of the union the number of protected workmen allotted to it:

Provided further that where the number of protected workmen allotted to a union under this sub-rule, falls short of the number of officers of the union seeking protection, the union shall be entitled to select the officers to be recognised as protected workmen. Such selection shall be made by the union and communicated to the employer within five days of the receipt of the employer.

(4) When a dispute arises between an employer and any registered trade union in any matter connected with the recognition of 'protected workmen' under this rule, the dispute shall be referred to the Conciliation Officer concerned, whose decision thereon shall be final.

#### *Notes.*

The rules 59, 60 and 61 prescribe the matters referred to in sections 33 and 33 A of the Act. The sections read as under:—

(1) During the pendency of any conciliation proceeding before a Conciliation Officer or a Board or of any proceeding before Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

- (a) in regard to any matter concerned with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or
- (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute,—

- (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or
- (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workmen shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or
- (b) by discharging or punishing, whether by dismissal or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.—

*Explanation.*—For the purposes of this sub-section, a 'protected workman', in relation to an establishment, means a workman who, being an officer of a registered



trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer make an application to a Conciliation Officer, Board, Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit.

Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner to such Labour Court, Tribunal or National Tribunal and on receipt of such complaint that Labour Court, Tribunal or National Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.

62. *Application for recovery of dues* --An application under section 33C shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government. Labour Department, Jaipur.

63. *Appointment of Commissioner* --Where it is necessary to appoint a Commissioner under sub-section (3) of section 33C of the Act, the Labour Court may appoint a person with experience in the particular industry, trade or business involved in the industrial dispute or a person with experience as a judge of a civil court, or as a stipendiary magistrate or as a Registrar or Secretary of a Labour Court or Tribunal constituted under the Act or of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950.

64. *Fees for the Commissioner, etc.* --(1) The Labour Court shall, after consultation with the parties, estimate the probable duration of the enquiry and fix the amount of the Commissioner's fees and other incidental expenses and direct the payment thereof into the nearest treasury, within a specified time, by such party or parties and in such proportion as it may consider fit. The Commission shall not issue until satisfactory evidence of the deposit into the treasury of the sum fixed is filed before the Labour Court:

Provided that the Labour Court may from time to time direct that any further sum or sum be deposited into the treasury within such time and by such parties as it may consider fit:

Provided further that the Labour Court may in its discretion, extend the time for depositing the sum into the treasury.

(2) The Labour Court may, at any time, for reasons to be recorded in writing vary the amount of the Commissioner's fees in consultation with the parties.

(3) The Labour Court may direct that the fees shall be disbursed to the Commissioner in such instalments and on such dates as it may consider fit.

(4) The undisbursed balance, if any, of the sum deposited shall be refunded to the party or parties who deposited the sum in the same proportion as that in which it was deposited.

65. *Time for submission of report.*—(1) Every order for the issue of a Commission shall appoint a date, allowing sufficient time, for the Commissioner to submit his report.

(2) If for any reason the Commissioner anticipates that the date fixed for the submission of his report is likely to be exceeded, he shall apply, before the expiry of the said date, for extension of time setting forth grounds thereof and the Labour Court shall take such grounds into consideration in passing orders on the applications:

Provided that the Labour Court may grant extension of time notwithstanding that no application for such extension has been received from the Commissioner within the prescribed time limit.

#### *Notes.*

The rules 62, 63, 64, and 65 are meant to put into effect the requirements of section 33 C. of the Act. The section is reproduced below:—

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chaptr V-A, the workman may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

(2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may be made under this Act, be determined by such Labour Court as may be specified in this behalf by the appropriate Government, and the amount so determined may be recovered as provided for in sub-section (1).

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

66. *Local Investigation.*—In any industrial dispute in which the Labour Court deems a local investigation to be requisite or proper for the purpose of computing the money value of a benefit, the Labour Court may issue a Commission to a person referred to in rule 63 directing him to make such investigation and to report thereon to it.

67. *Commissioner's report.*—The Commissioner after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence together within his report in writing signed by him to the Labour Court.

(2) The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the industrial dispute and shall form part of the record of the proceedings in the industrial dispute; but the Labour Court, or, with the permission of the Labour Court, any of the parties to the industrial dispute, may examine the Commissioner personally before the Labour Court regarding any of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

(3) Where the Labour Court is for any reason dissatisfied with the proceeding of the Commissioner it may direct such further enquiry to be made as it shall think fit.

68. *Powers of Commissioner.*—Any Commissioner appointed under these rules may, unless otherwise directed by the order of appointment—

- (a) examine the parties themselves and any witnesses whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;
- (b) call for and examine documents and other things relevant to the subject of enquiry;
- (c) at any reasonable time enter upon or into any premises mentioned in the order;

69. *Summoning of witnesses etc.*—(1) The provisions of the Code of Civil Procedure, 1908 (Act V of 1908) relating to the summoning, attendance examination of witnesses and penalties to be imposed upon witnesses, shall apply to persons required to give

evidence or to produce documents before the Commissioner under these rules.

(2) Every person who is summoned and appears as a witness before the Commissioner shall be entitled to payment by the Labour Court out of the sum deposited under Rule 64, of an allowance for expenses incurred by him in accordance with the scale for the time being in force for payment of such allowance to witnesses appearing in the civil courts.

70. *Representation of parties before the Commissioner.*—The parties to the industrial dispute shall appear before the Commissioner, either in person or by any other persons who is competent to represent them in the proceedings before the Labour Court.

#### Notes

The rules 66 to 70 prescribe the procedure for Commission for the purposes of local investigation as required under rule 60.

71. *Notice of strike.*—The notice of a strike to be given by workmen in a public utility service shall be in Form L.

(2) On receipt of a notice of strike under sub-rule (1), the employer shall forthwith intimate the fact to the Conciliation Officer having jurisdiction in the matter.

72. *Notice of lock-out.*—The notice of lock-out to be given by an employer on a public utility service shall be in Form M. "The notice shall be displayed conspicuously by the employer on a notice board at the main entrance to the establishment and in the Manager's Office."

“Provided that where a trade union exists, a copy of the notice shall also be served on the Secretary of the Union.”

73. *Report of lock-out or strike.*—The notice of lock-out or strike in a public utility service to be submitted by the employer under sub-section (2) of section 22, shall be in Form N.

74. *Report of notice of strike or lock-out.*—The report of notice of a strike or lock-out to be submitted by the employer under sub-section (6) of section 22 shall be sent by registered post or given personally to the Conciliation Officer appointed for the local area concerned, with copy by registered post to:—

- (1) The Secretary to the Government, Labour Department, Government of Rajasthan, Jaipur.
- (2) The Labour Commissioner, Rajasthan, Jaipur.
- (3) The District Magistrate concerned.

#### *Notes*

Rules 71 to 74 prescribe the matters referred to in Section 22 of the Act which reads as under:—

(1) No person employed in a public utility service shall go on strike in breach of contract—

- (a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or
- (b) within fourteen days of giving such notice; or
- (c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceeding before a Conciliation Officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(3) The notice of lock out or strike under this section shall not be necessary where there is already in existence a strike or as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

75. *Register of settlements.*—The Conciliation Officer shall file all settlement effected under this Act in respect of disputes in

the area within his jurisdiction in a register maintained for the purpose as in Form O.

76. *Notice of retrenchment.*—If any employer desires to retrench any workman employed in his industrial establishment who has been in continuous service for not less than one year under him (hereinafter referred to a 'workman' in this rule and in rules 77 and 78), he shall give notice of such retrenchment as in Form P to the Government and such notice shall be served on the Government by registered post in the following manner:—

- (a) Where notice is given to the workman notice of retrenchment shall be sent within three days from the date on which notice is given to the workman.
- (b) Where no notice is given to the workman and he is paid one month's wages in lieu thereof, notice of retrenchment shall be sent within three days from the date on which such wages are paid; and
- (c) Where retrenchment is carried out under an agreement which specifies a date for the termination of service, notice of retrenchment shall be sent so as to reach the Government at least one month before such date:

Provided that if the date of termination of service agreed upon is within 30 days of the agreement, the notice of the retrenchment shall be sent to Government within 3 days of the agreement.

77. *Maintenance of seniority list of workmen.*—The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be posted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

78. *Re-employed of retrenched workmen.*—(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display of a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time therefor:

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the seniormost retrenched workmen in the list referred to in Rule 77 the number of such seniormost workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen.

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with the employer in any case where intimation is sent to every one of the workmen mentioned in the list prepared under Rule 77.

*Notes.*

Rules 76, 77 and 78 deal with the retrenchment of the workmen. The matters referred to in Section 25 F. of the Act, reading as under, have also been prescribed in these rules:—

No work man employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice :

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service ;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen day's average pay for every completed year of service or any part thereof in excess of six months ; and

- (c) notice in the prescribed manner is served on the appropriate Government.

79. *Penalties.*—Any breach of these rules shall be punishable with fine not exceeding fifty rupees.

*Notes.*

This rule has been framed in pursuance of sub-section (3) of section 38 of the Act.

80. *Repeal.*—The Industrial Disputes (Central) Rules, 1947 adopted so far in this State are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules

FORM A

(See Rule 3)

Form of application for the reference of an industrial dispute to a Board of Conciliation under section 10 (2) of the—

Court of Enquiry

Labour Court

Tribunal

Industrial Disputes Act, 1947.

Whereas an industrial dispute is apprehended/exists between  
and and it is expedient that  
the matters specified in the enclosed statement which are connected  
the dispute investigation and settlement with or relevant to the  
dispute should be referred for enquiry by a Board of Conciliation  
an application is hereby made under sub-section (2) of section 10  
of adjudication



a Court of Enquiry  
a Labour Court  
a Tribunal

of the Industrial Disputes Act, 1947, that the said matters should be referred to said Dispute.

a Board of Conciliation.

a Court of Enquiry.

a Labour Court.

a Tribunal.

This application is made by the undersigned who have/has been duly authorised to do so by virtue of a resolution (copy enclosed) adopted by a majority of the members present at a meeting of the \_\_\_\_\_ held on the \_\_\_\_\_ 19 .....

A statement giving the particulars required under Rule 3 of the Rajasthan Industrial Disputes Rules, 1957, is attached. Dated the..... Signature of the applicant (s).....

To

The Secretary to the Government.

Labour Department,

Government of Rajasthan, Jaipur.

Statement required under Rule 3 of the Rajasthan Disputes Rules, 1957, to accompany the form of application prescribed under sub-section (2) of section 10 of the Industrial Disputes Act, 1947—

- (a) Parties to the dispute including the names and address of the establishment or undertaking involved.
- (b) Specified matters in dispute.
- (c) Total number of workmen employed in the undertaking affected.
- (d) Estimated number of workmen affected or likely to be affected by dispute.
- (e) Efforts made by the parties themselves to adjust the dispute.

FORM B

(See Rule 6)

Whereas an industrial dispute has arisen/is apprehended between ..... and ..... and it is expedient to refer the said dispute under section 10 of the Industrial Disputes Act, 1947 to a Board of Conciliation for the purpose of investigating the same and for, promoting a settlement thereof, you are hereby required to intimate to the undersigned not later than the ..... the name (s) and address (es) of one (two) person (s) whom you wish to recommend for appointment as your representative (s) on the said Board.

If you fail to make the recommendation by the date specified above, the Government will select and appoint such person (s) as it thinks fit to represent you.

Secretary to the Government,  
Labour Department,  
Government of Rajasthan, Jaipur.

## FORM C

(See Rule 7)

(Under section 10A of the Industrial Disputes Act, 1947)  
between

Names of parties.

Representing employer:

Representing workmen;

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of .. ..... (hereby specify the name (s) and address (es) of the arbitrator (s))

- (i) Specify matters in dispute.
- (ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.
- (iii) Name of the Union, if any representing the workmen in question.
- (iv) Total number of workmen employed in the undertaking affected.
- (v) Estimated number of workmen affected or likely to be affected by the dispute.

\*We further agree that the majority decision of the arbitrators shall be binding on us.

Witnesses.

Signature of the Parties.

(1)

(2)

Representing employers.  
Representing workmen.

Copy to:—

- (i) The Conciliation Officer, (here enter office address of the Conciliation Officer in local area concerned).
- (ii) The Labour Commissioner, Rajasthan, Jaipur.
- (iii) The Secretary to the Government, Labour Deptt., Government of Rajasthan, Jaipur.

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—Where applicable.

## FORM D

(See Rule 17)

Whereas an industrial dispute between ..... and..... has been referred to this Board of Conciliation for investigation and settlement.

Court of Enquiry for investigation.

Labour Court/Tribunal for adjudication.

under section 10 of the Industrial Disputes Act, 1947, you are hereby summoned to appear before the Board/Court/Labour Court/Tribunal in person on the ..... day of ..... at ..... O' clock in the .. .. noon to answer all material questions relating to the said dispute and you are directed to produce on that day all the books, papers and other documents and things in your possession or under your control in any way relating to the matter under investigation by this Board/Court/Labour Court/Tribunal.

Dated .....

Chairman/Secretary,

Board of Conciliation

Presiding Officer/Secretary.

Court of Enquiry

Labour Court

Tribunal.

## FORM E.

(See Rule 34)

Notice of Change to be given by an Employer.

Name of employer.....Address .....

Dated the..... day of ..... 19 ..

The Secretary/Principal Officer of the Union, Association/The workman/workmen affected.

In accordance with section 9A of the Industrial Disputes Act, 1947, I/we beg to inform you that it is my/our intention to affect the change/changes specified in the annexure to this letter, with effect from.....

Yours faithfully,

Signature .....

Name .....

Designation.....

Annexure

(Here specify the change/changes intended to be affected.)

## FORM F

(See Rule 36)

Before (here mention the authority concerned)

Reference No ..... of ..... Workmen

*Versus*

..... Employer.

In the matter of ..... I/we hereby authorise Shri/Sarvasree....., to represent me/us in the above matter.

Dated this..... day of ..... 19 ..

Signature of person (s) nominating the representative,

Accepted

Address

Signature of representative (s)

Address

## FORM G

(See Rule 47)

Form of Nomination Paper

Name of Industrial Establishment Group/Section/Shop/Department.

I nominate (here enter the name of the workmen's representative eligible for election) as a candidate for election to the Works

Committee. He is eligible as a voter in the constituency for which he is nominated. Dated..... Signature of Proposer.

I agree to the proposed nomination.

Date.....

Signature of Candidate.

Date... ..

Attested by:(1)

(to be signed by any two voters belonging to the electoral constituency)

(2)

### FORM H

(See Rule 58)

Form of Memorandum for Settlement.

Names of Parties:--

Representing employer(s)

Representing workmen:

Short recital of the case  
Terms of settlement.

Witness:

Signature of the Parties.....

(1) .....

... ..

(2) .....

.....

\*Signature of Conciliation Officer/Board of Conciliation.

Copy to:--%(1) Conciliation Officer

(Here enter the office address of the Conciliation Officer in the local area concerned.).

\*In cases of settlement effected by Conciliation Officer/Board of Conciliation.

%In cases where settlement are arrived at between the employer and his workmen otherwise than in the course of conciliation proceeding.

(2) The Labour Commissioner, Rajasthan, Jaipur.

(3) The Secretary to Government, Labour Department, Government of Rajasthan, Jaipur.

### FORM I

(See Rule 59)

Before the Labour Court/Tribunal ...Complaint under section 33A of the Industrial Disputes Act, 1947.

A.....Complaint (s)

Address:--

*Versus*

B ..... ..Opposite Party (ies).

Address:--

In the matter of Reference No.....

The petitioner (s) beg/begs to complaint that the Opposite Party (ies) has/have been guilty of a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 (14 of 1947) as shown below :—

(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the Management is challenged )

The complaint (s) accordingly prays/pray that the Labour Court,

may be pleased to decide the complaint set out above and pass such order or orders thereon as it may deem fit and proper.

Tribunal.

The number of copies of the complaint and its annexures required under Rules 59 of the Rajasthan Industrial Disputes Rules, 1957 are submitted herewith.

Signature of the complainant (s).

Dated this ..... day of ..... 195 ..

#### Verification

I do solemnly declare that what is stated in paragraphs .... above is true to my knowledge and that what is stated in paragraphs .... above is stated upon information received and believed by me to be true. This verification is signed by me at on.... day of ..... 19 ..

Signature or Thumb Impression  
of the person verifying.

#### FORM J

(See Rule 60 (1))

Before (here mention the Conciliation Officer/Board/Labour Court or Tribunal.

Application for permission under sub-section (1) of section 33 of the Industrial sub-section (3) of Disputes Act, 1947 (14 of 1947), in the matter of Reference No.....

A ..... Applicant

Address :—

*Versus*

B ..... Opposite party (ies)

Address (es) :—

The above mentioned applicant begs to state as follows :—

(Here mention the action specified in clause (a) of clause (b) of sub-section (1) grounds on which the permission is sought for).

The applicant therefore prays that express permission may kindly be granted to him to take the following action, namely :—

(Here mention the action specified in clause (a).

of clause (b) of  
sub-section (1)

sub-section (3)  
of section (33)

Signature of the applicant.

Dated this ..... day of ..... 195 .

Space for verification.

(Signature of the person verifying).

Date (on which the verification was signed).....

Place (as which the verification was signed) .....

### FORM K

[ See Rule 60 (2) ]

Before (here mention the Conciliation Officer/Board/Labour Court or Tribunal).

Application under sub-section (2) of section 33 of the Industrial Disputes Act, 1947 (14 of 1947) in the matter of Reference No .....

A..... Application.

*Versus*

B..... Opposite Party (ies).

Address (es) :—

The above mentioned applicant begs to state as follows :—

(Here set out the relevant facts and circumstances of the case).

The workman/workmen discharged/dismissed under clause (b) of sub-section (2) of section 33 has/have been paid wages for one month :—

The applicant prays that the Conciliation Officer/Board/Labour Court/Tribunal may be pleased to approve the action taken, namely :—

(Here mention the action taken under clause (a) clause (b) of sub-section (2) of section 33).

Signature of the applicant.

Dated this.....day of.....19 .

Space for verification.

(Signature of the person verifying)

Date (on which the verification was signed).....

Place (at which the verification was signed).....

\*Delete, if not applicable.

### FORM L

(See Rule 71)

Form of notices of strike to be given by workman/workmen in a public utility service.

Name of Union .....

[Names of five elected representatives of the workmen]

Address.

Dated the.....day of.....19 .

To,

(The name of the employer).

Dear Sir/Sirs,

In accordance with the provisions contained in sub-section (1) of section 22 of the Industrial Disputes Act, 1947, I/we hereby give you notice that I propose to call a strike/we purpose to go on strike on..... .. 19..... for the reasons explained in the annexe.

Yours faithfully,

Secretary of the Union.

Five representatives of the workmen duly elected at a meeting held on .. .... vide resolution attached.

## ANNEXE

Statement of the case.

Copy to (1) Conciliation Officer.

(Here enter office address of the Conciliation Officer in the local area concerned )

(2) The Labour Commissioner, Rajasthan, Jaipur.

## FORM M

(See Rule 72)

Form of notice of lock-out to be given by an employer carrying on a public utility service.

Name of employer ..... Address.....

Dated the ..... day of ..... 19 ..

\*All workmen employed in the Industry.

Workmen of ..... Deptt /section.

( hereby specify the department or section affected by the lockout ).

The workmen concerned ( here specify the names of the workmen affected by the lockout. )

To,

Dear Sirs,

In accordance with the provisions of sub-section (2) of section 22 of the Industrial Disputes Act, 1947, I/we hereby inform you that it is my/our intention to effect a lock-out with effect from .....for the reasons explained in the annexe.

Yours faithfully,

\*Here insert the position which the person who signs the letter holds with the employer issuing this letter.

## ANNEXE

Statement of the case.

Copy to (1) Conciliation Officer.

( Here enter office address of the Conciliation Officer in the local area concerned ).

(2) The Labour Commissioner, Rajasthan, Jaipur.

## FORM N

( See Rule 73 )

(Form of Report of Strike or Lock-out in a public utility service.)  
Information to be supplied in this form immediately on the occurrence of a strike or lock-out in a public utility service to the Conciliation Officer in the local area concerned and to the Labour Commissioner, Rajasthan, Jaipur.

Name of undertaking.	1	2	3	Number of workers involved.		Strike or lock-out	Date of commencement of strike or lock-out.	Cause.	Was notice of strike or lock-out given, if so, on what date and for what period?	Is there any permanent agency or agreement in the undertaking for the settlement of disputes between the employer and workmen? If any exist, particulars thereof.	Any other information.
				Directly	Indirectly						
				4	5	6	7	8	9	10	11

NOTE :—Column (3) Give the average number of workmen employed during the month previous to the day on which the strike or lock out occurred. While reckoning the average omit the days on which the attendance was not normal for reasons other than individual reasons of particular workmen. Thus days on which strike or lock-out occurs or communal holiday is enjoyed by a large action of workers should be omitted.

Column (4) If say, 200 workers in a factory strike work and in consequence the whole factory employing 1,000 workers has to be closed then 200 should be shown under "directly" and the remaining under "indirectly". If the strike of 200 workers does not effect the working of the other departments of the Factory, the number of workers involved would only be 200, which figure should appear under "directly" and column "indirectly" would be blank.

Column (8) Give the main causes of the dispute as well as the immediate cause that led to the strike or lock-out.



FORM O  
(See Rule 75)  
REGISTER PART-I

S. No.	Industry.	Parties to the settlement.	Date of settlement.	Remarks.
--------	-----------	----------------------------	---------------------	----------

\*Whether the settlement was affected at the intervention of the conciliation machinery, or by mutual negotiations between the parties, may be indicated here.

PART II

( Should contain one copy each of the settlement in the serial order indicated in Part I. )

FORM-P  
(See Rule 76)

Form of notice of retrenchment to be given by an employer under clause (c) of section 25F of the Industrial Disputes Act, 1947-

Name of employer..... Address .....

Dated the.....day of .....19 .....

To

The Secretary to Government,  
Labour Department,  
Government of Rajasthan, Jaipur.

Sir,

Under clause (c) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947), I/We hereby inform you that I/We have decided to reason explained in the annexe.

2. The workmen concerned were given on the\*\*\* ..... 19 one month's notice in writing as required under clause (a) of section 25F of the Act. Retrenchment is being effected in pursuance of an agreement, a copy of which is enclosed. The workmen were given on the\*\*\*..... 19 ..... one month's pay in lieu of notice, as required under clause (a) of section 25F of that Act.

3. The total number of workmen employed in the industrial establishment is\*\*\* ..... and the total number of those who will be affected by the retrenchment is given below.—

Category of designation of workmen to be retrenched.	Number of workmen	
	Employed.	To be retrenched.
1	2	3

4. I/We hereby declare that the workmen/workman concerned has/have been/will be paid compensation due to them under section 25F of the Act on \*\* ..... the expiry of the r period.

Yours faithfully

\*Here insert the number of workmen.

\*\*Here insert the date

%Delete the portion which is not applicable.

\*\*\*\*\*Here insert the total number of workmen employed in the industrial establishment.

%%%Here insert the position which the person who signs this letter holds with the employer issuing the letter.

### ANNEXE

Copy to:—

1. Conciliation Officer, Here enter office address of the conciliation officer in area concerned.
2. The Labour Commissioner, Rajasthan, Jaipur.

By Order of the Governor,

A. K. ROY,

Secretary to the Government.

### FORM 1

(Section 9 C and Rule 2 A (2) )

#### Register of Representative Trade Unions.

Serial No..... Dated the .....  
 Name of the Union..... affiliated to .....  
 Address of Head Office .....  
 No. and date of registration under the Indian Trade Unions Act, 1926 .....

List of persons applying for registration.	Total number of workmen employed in the ship Factory/Industry.	Total union membership applying for registration.
1	2	3

Percentage of members applying for registration to the total labour employed.	Any other information which the Registrar may require for the purpose.	Remarks
4	5	6

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

FORM 2  
( Rule 2A (2) )

Name of union..... Address.....

Dated the.....day of.....196

To,

The Registrar,  
Industrial Disputes (Rajasthan Amendment) Act,  
Jaipur.

DEAR SIR,

I beg to state that at a general \_\_\_\_\_ meeting of the members  
meeting of the executive

of above union, which was held at ... ..on the day.....  
19 , it was decided that the union should apply to you, for being  
entered in the Registrar of Representative Unions under section 90  
of the Industrial Disputes (Rajasthan Amendment) Act, 1958 (Act  
No. 34 of 1958). A copy of the resolution signed by the President  
and Secretary of this union is attached.

2. The union was registered under the Indian Trade Unions  
Act, 1926, on the day of..... 19 , under certificate  
No.....issued by the Registrar of Trade Unions for the  
State of Rajasthan.

3. The Union has .....members in the.....  
\*(Factory Establishment) in the local area of.....

4. The constitution of the union is herewith attached.

5. The address of the head office of the union, to which all  
communications and notices may be addressed is as follows:—

Yours faithfully,  
General Secretary/Secretary.

---

\*Here insert the name of the factory establishment.

FORM 3  
(Rule 2D)

Certificate of Registration of Representative Union.  
State Emblem

No.....

It is hereby certified that..... with its head office  
at..... has been registered under the Industrial Disputes  
(Rajasthan Amendment) Act, 1958 (Act No. 34 of 1958) this day  
of.... 19 .

Jaipur,  
The..... 19....

Registrar of Representative  
Unions, Rajasthan.

## Form 4

(Rule 2F)

It is hereby published for the information of union/unions concerned engaged in the trade union activities in the.....  
 .... (factory/industry) that a union styled as .....  
 .....bearing Registration No.... dated the' ...  
 under the Indian Trade Unions Act, 1926, has approached this office for registration as a respective union, under the Industrial Disputes (Rajasthan Amendment) Act, 1958 (Act No. 34 of 1958) on the ground that it has (a) membership of workmen employed in the above satited factory/industry and accordingly a notice in writing has been issued on .....to the representative union registered with this office under Registration No . ...Dated ..... to show cause within one month of the date of receipt of such notice by such union, why the applicant union should not be registered in its place.

## FORM No. 5.

( Rule 6 C:)

## Registration of Arbitration Award

S. No	Name/Names of arbitrators	Name of the disputant parties	
		Employers.	Employers
1	2	3	

Date of giving award	Date of publication in the State Gazette.	Remarks
4	5	6

# INDUSTRIAL DISPUTES RULES, 1958

*Notification No. F 3 (31) Lab./62*—In exercise of the powers conferred by Section 38 of the *Industrial Disputes Act 1947* (Central Act No. 14 of 1947), the State Government hereby makes the following further amendments to the Rajasthan Industrial Disputes Rules, 1958, after their previous publication, namely:—

## AMENDMENTS

1. In the said rules :

(1) In rule 2, the existing clause (f) may be re-numbered as (g), and a new clause (f) may be inserted as under:—

“Schedule” means “a Schedule annexed to the Act”.

(2) In rule 34, the following sentence and the proviso shall be added at the end, namely:—

“The notice shall be displayed conspicuously by the employer on a Notice Board at the main entrance of the establishment and in the Manager’s office :

Provided that where a registered Union exists a copy of the notice shall also be served on the Secretary of the Union.”

(3) After rule 75, the following rule shall be inserted, namely:—

“75. Notice of Lay off” —(1) If any workman employed in an industrial establishment as defined in the explanation to section 25 of the Act, not being an industrial establishment referred to in sub-section (1) of that section, is laid off, then the employer concerned shall give notice of the commencement and the termination of such lay off in Forms O—1 and O—2 respectively within three days of such commencement or termination, as the case may be.

(2) Such notice shall be given by an employer in every case irrespective of whether in his opinion the workman laid off is or is not entitled to compensation in section 25C of the Act.”

(4) For Form E, the following Form shall be substituted:—

FORM 'E'  
( See Rule 34 )

Notice of change of service conditions prescribed by an employer.

Name of employer .....  
Address .....  
Dated the ..... day of .....

In accordance with section 9A of the Industrial Disputes Act, 1947, I/We hereby give notice to all concerned that it is my/our intention to effect the change/changes specified in the annexure, with effect from.....  
in the conditions of service applicable to workmen in respect of the matters specified in the Fourth Schedule to the said Act.

Signature.....

Designation.....

(Here specify the change/changes intended to be effected)

(5) After Form 'O' the following new Forms shall be inserted, namely:—

FORM O—1  
( See Rule 75 A )

To

The Labour Commissioner,  
Rajasthan, Jaipur.

Sir,

Under Rule 75A of the Rajasthan Industrial Disputes Rules, 1958, I/We hereby inform you that I/We have laid off ..... out of a total of..... workmen employed in the establishment with effect from.... for the reasons explained in the annexure.

2. Such of the workmen concerned as are entitled to compensation under Section 25 C of the Industrial Disputes Act, 1947, will be paid compensation due to them.

Yours faithfully.  
( \* \* )

Copy to:—

Conciliation Officer,.....(here enter the office address of the Conciliation Officer of the local area concerned).

\*Here insert the number of workmen.

\*\*Here insert the position which the person who signs the letter holds with the employer issuing the letter.

ANNEXURE

“Statement of reasons.”

FORM O—2  
(See Rule 75A)

To

The Labour Commissioner,  
Rajasthan, Jaipur.

Sir,

As required by Rule 75A of the Rajasthan 'Industrial Disputes Rules, 1958 and in continuation of my/our notice dated.... .....in Form O—1, I/We hereby inform you that the lay off in my/our establishment has ended\*.... ..

Yours faithfully,  
( \* \* ).

Copy to ;—

Conciliation Officer .... (here enter the office address of the Conciliation Officer of the local area concerned).

\*Here insert the date.

\*\*Here insert the position which the person who signs the letter holds with the employer issuing the letter.

[Pub. in Raj. Gaz. Part IV (Ga)—Dt. 5-12-63—Page 511]

Labour and Employment Department  
Jaipur, April 4, 1967.

*Notification No. F. 3 (14) Lab./63.*—In exercise of the powers conferred by section 38 of the *Industrial Disputes Act, 1947* (Central Act 14 of 1947), the State Government hereby makes the following Rules, further to amend the Rajasthan Industrial Disputes Rules, 1958, the same having been published previously in the Rajasthan Rajpatra (Extraordinary) Part 3 (kh) dated the 10th August, 1966 as required by sub-section (1) of section 38 of the said Act, namely :—

RULES

1. These rules may be called the Rajasthan Industrial Disputes (Amendment) Rules, 1967.

2. In the Rajasthan Industrial Disputes Rules, 1958—

[1] in rule 2(b), the word 'persons' shall be substituted by the word "persons" occurring therein;

[2] in rule 8(i), the following shall be added as sub-rule (1) before the existing rule, namely :—

"*Arbitration Agreement*—(i) An arbitration agreement referred to in section 10B (1) of the Act, shall be made in Form C and shall be delivered personally or forwarded by registered post to the Registrar (in triplicate) mentioned in sub-section (2) of section 10B, by the signatories to the agreement or any them."

(ii) the existing rule 8 shall be re-numbered as sub-rule 8(2) and for the existing clause (a) thereof, the following clause shall be substituted, namely—

“(a) in the case of an employer—

(i) by the employer himself, or

(ii) if any group or association of employers is a party to the agreement by a person authorised in writing in this behalf by such group or association, or

(iii) if the employer is an incorporated company or other body corporate, by the Agent, Manager or other principal officer of the corporation, if so authorised in writing by the employers.”

(iii) after clause (b) to sub-rule (2) of rule 8, the following Explanation shall be added, namely:—

*Explanation:—*In this rule, officer’ means any of the following officers of the trade union, namely:—

(a) President;

(b) Vice-President;

(c) Secretary (including the General Secretary)

(d) Joint Secretary; and

(e) any other officer of the trade union authorised in this behalf by the President and Secretary of the Union;”

(3) The existing rule 9 shall be numbered as sub-rule (1) of rule 9 and thereafter the following new sub-rule (2) shall be inserted, namely:—

“(2) Where the Conciliation Officer receives no notice of a Strike or lock out under rule 71 or 72 but he considers it necessary to intervene in the dispute, he may give formal intimation in writing to the parties concerned, declaring his intention to commence conciliation proceedings with effect from such date as may be specified therein.”

[4] After rules 10, the following new rules 10A and 10B shall be added, namely:—

“10A. *Parties to submit statements.*—The employer or the party representing workmen involved in an industrial dispute shall forward a statement setting further the specific matter in dispute to the Conciliation Officer concerned, wherever his intervention in the dispute is required.

10B. *Proceeding before the Labour Court or Tribunal:*—(1) Where the State Government refers any industrial dispute for adjudication to a Labour Court or Tribunal, within two weeks of the date of receipt of the order of reference, the party representing workmen and the employer involved in the dispute shall file with the Labour Court or the Tribunal, as the case may be, a statement of the demands relating only to the issues as are



included in the order of reference and shall also forward a copy of such statements, to each one of the opposite parties involved in the said dispute:

Provided that where the Labour Court or Tribunal as the case may be, considers it necessary, it may extend the time limit for filing of such statements.

(2) Within two weeks of the receipt of the statements referred to in sub-rule (1), the opposite party shall file its rejoinder with the Labour Court or Tribunal, as the case may be and simultaneously forward a copy thereof to the other party:

Provided that such rejoinder shall relate only to such of the issues as are included in the order for reference:

Provided further that where the Labour Court or Tribunal, as the case may be, considers it necessary, it may extend the time limit for the filing of such rejoinder.

(3) The Labour Court or Tribunal, as the case may be, shall ordinarily fix the date for the first hearing of the dispute within six weeks of the date on which it was referred for adjudication :

Provided that the Labour Court or Tribunal, as the case may be, for reasons to be recorded in writing, fix a later date for the first hearing of the dispute.

(4) The hearing shall ordinarily be continued from day-to-day and arguments shall follow immediately after the closing of evidence.

(5) The Labour Court or Tribunal, as the case may be, shall not ordinarily grant an adjournment for a period exceeding a week at a time and not more than three adjournments in all at the instance of any one of the parties to the dispute :

Provided that the Labour Court or Tribunal, as the case may be, for reasons to be recorded in writing, grant an adjournment exceeding a week, or more than three adjournments at the instance of any one of the parties to the dispute.

(6) The Labour Court or Tribunal, as the case may be, shall, as the examination of such witness proceeds, make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the presiding Officer:

Provided that the Labour Court or Tribunal, as the case may be, may follow the procedure laid down in rule 5 of order XVIII of the First Schedule to the Code of Civil Procedure, 1908, if it considers necessary so to do, in view of the nature of the particular industrial dispute pending before it."

[5] in rule 13, the following shall be inserted as the opening sentence, namely :—

‘Subject to the provisions contained in rule 10A and 10B”

[6] rule 15A shall be deleted;

[7] rule 35 shall be deleted;

[8] between rule 49 and 51, the following rule 50 shall be inserted, namely:—

“50. *Arrangements for election.*—The employer shall be responsible for all arrangements in connection with the election.”

[9] in rule 58—

(i) after clause (b) of sub-rule (2); the following Explanation shall be added, namely:—

*Explanation:*—In this rule, officer’ means any of the following officers, namely :—

(a) the President,

(b) the Vice-President,

(c) the Secretary (including the General Secretary),

(d) a Joint Secretary,

(e) any other officer of the trade union.

(ii) in sub-rule (3), for the word ‘Central’ occurring before the word ‘Government’, the word “State” shall be substituted;

(iii) in sub-rule (4), the word “State” shall be inserted before the word “Government”;

[10] for the existing rule 62, the following new rule shall be substituted, namely:—

“62. *Application for recovery of dues.*—(1) Where any money is due to a workman from any employer under a settlement or an award or under the provisions of Chapter VA, the workman concerned may apply in Form K-1 for the recovery of the money due to him;

(2) where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the workman concerned may apply to the specified labour Court in Form E-2 for the determination of the amount at which such benefit should be computed;

(3) where the Labour Court has determined the amount of the benefit under sub-rule (2), the workman concerned may apply in Form K-3 for the recovery of the money due to him”;

[11] in sub-rule (1) of rule 78, for the word “therefore” at the end, the word “thereafter” shall be substituted;

[12] the existing forms K, KK and KKK shall be substituted by the Forms K-1, K-2 and K-3 as given below:—

FORM K-1  
(See rule 62 (1))

To,

- (1) The Secretary to the Government of Rajasthan,  
Labour Department, Jaipur.
- (2) The Presiding Officer, Labour Court,  
Rajasthan, Jaipur.

Sir,

I have to state that I am entitled to receive from Messrs.... a sum of Rs. .. on account of .... under the provision of Chapter V-A of the Industrial Disputes Act, 1947/in term of award dated .....given by ...../in terms of settlement dated the . .... arrived at between the said Messrs ... and their workmen through..... the duly elected representatives.

I further state that I served the management with a demand notice by registered post on .. for the said sum which the management has neither paid nor offered to pay to me even through a fortnight has since elapsed. The details of the amount have been mentioned in the statement hereto annexed.

I request that the said sum may kindly be recovered from the management under sub-section (1) of section 33 of the Industrial Disputes Act, 1947, and paid to me as early as possible.

Station.....

Signature of the applicant.

Dated .....

Address.....

ANNEXURE

(Here indicate the details of the amount claimed.)

FORM K-2

(See rule 62 (2))

Application under sub-section (2) of section 33 of the Industrial Disputes Act, 1947.

Before the Labour Court, Rajasthan, Jaipur.  
between :

(1) Name of the applicant.

(2) Name of the employer.

The petitioner .....a workmen of Messrs.... of ..... is entitled to receive from the said Messrs..... the benefits mentioned in the statement hereto annexed.

It is prayed that the Court be pleased to determine the amount due to the petitioner.

Station .....

Signature or Thumb impression

Dated.....

Address.....

## ANNEXURE

(Here in set out the details of the benefits together with the case for their admissibility.)

## FORM K-3

See Rule 62 (3)

Application under sub-section (2), of section 33 of the Industrial Disputes Act 1947.

To,

- (1) The Secretary to the Government of Rajasthan,  
Labour Department, Jaipur.
- (2) The Presiding Officer, Labour Court, Rajasthan,  
Jaipur

Sir,

I have to state that I am entitled to receive from Messrs\*  
.....P. O.....— ..... District .....  
(with whom I am/was employed) a sum of Rs ..... under the  
award dated the ..... given by\*\*...../the settlement  
dated the .....under Chapter V-A of the Industrial Disputes  
Act, 1947, according to the determination of the Labour Court  
..... A certified copy of the said Labour Court's finding  
is enclosed. I request that the said sum of money may kindly  
be recovered from Messrs... \*\*\* under sub-section (1) of  
Section 33 of the said Act and paid to me.

Station.....

Signature of the applicant

Date.....

Address.....

\*Insert the name of the place where the headquarters of the Labour Court are situated.

\*\*Insert the name of the Tribunal/Arbitrator.

\*\*\*Insert the name and address of the concerned employer.

[Pub. in Raj. Gaz. 4 (Ga)-Dt. '27-7-67-Page 482]

*Notifications under*

**RAJASTHAN INDUSTRIAL DISPUTES RULES, 1958**

*Published in Raj. Raj-patra Dated November 27, 1958 part IV (c) at page 1226 :*

Industries (a) Department

(Labour Section)

**NOTIFICATION**

Jaipur, November 8, 1958.

*No. F. 1. (44) Lab./56.*—In pursuance of sub-rule (2) of rule 1 of the Rajasthan Industrial Disputes Rules, 1958, the Government of Rajasthan hereby appoints 1st December, 1958, as the date on which the said rules shall come into force.

*Notifications under*

## INDUSTRIAL DISPUTES ACT, 1947

*Published in Raj. Raj-patra Vol. 2 No. 43 Dated 12-8-50 part I at page 345 :*

Jaipur, August 4, 1950.

No. 1514/Lab/(vi)—In exercise of the powers conferred by Section 4 of the Industrial Disputes Act 1947 of the Central Legislation as adapted by the Rajasthan Adaption of Central Laws Ordinance 1950, the Government of Rajasthan is pleased to appoint the Labour Commissioner, Rajasthan by virtue of his office, as Conciliation officer for Rajasthan.

*Published in Raj. Raj-patra Vol. 4 No. 90 Dated 30-8-52 part I at page 487 :*

### LABOUR DEPARTMENT.

#### NOTIFICATIONS.

Jaipur, August 6, 1952.

No. F. 25 (5) Lab./50.—In exercise of the powers conferred by sub-section (1) of section 34 of the Industrial Disputes Act, 1947 (XIV of 1947) the Government of Rajasthan is pleased to order that the Labour Officer, Jaipur shall prosecute under sub-section (2) of section 31 of the aforesaid Act, the industrial establishment whose names are given below (in accordance with section 32 of the said Act) for having contravened the provisions of section 3 of the aforesaid Act.

(1) M/s Gunamal & Co, Jaipur.

(2) M/s Udaibhan Industries Limited, Dholpur.

(3) M/s Alwar Paint, Oil and Varnish Works Limited, Alwar.

*Published in Raj. Raj-patra Vol. 5 No. 37 Dated 2-6-53 part I at page 211 :*

Appointments Department.

#### ORDER.

Jaipur, June 2, 1953

No. 4253/Apptts. (A)/53.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Government of Rajasthan is pleased to constitute, for the adjudication of industrial disputes in Rajasthan, an Industrial Tribunal, consisting of one member only and to appoint Shri Shardool Singh Mehta, R.J.S., Legal Remembrancer and Ex-officio Secretary to Government, as such member.

2. This order comes into force with effect from 3-6-53. The appointment is at present sanctioned for the financial year 1953-54.

3. With effect from 3rd June, 1953, the post of Legal Remembrancer and Ex-officio Secretary to Government is abolished and its functions merged with those of the Law Secretary; in lieu thereof the post of Secretary to Government, Departments of Agriculture, Forest, Co-operation and Backward Class Welfare is created.

By Order of

His Highness the Rajpramukh,

B. G. RAO,

Chief Secretary to the Government.

*Published in Raj. Raj-patra Vol. 5 No. 39 Dated 8-6-53 part 1 at page 229 :*

### APPOINTMENTS DEPARTMENT (A).

*To be substituted for the order bearing the same No. and date*  
ORDER.

Jaipur, June 2, 1953.

No. 4253/Appts. (A)/53.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Government of Rajasthan is pleased to constitute, for the adjudication of Industrial disputes in Rajasthan, an Industrial Tribunal, consisting of one member only and to appoint Shri Shar-dool Singh Mehta, R.J.S., Legal Remembrancer and Ex-officio Secretary to Government, as such member.

2. This order comes into force with effect from 3rd June 1953. The appointment is at present sanctioned for the financial year 1953-54.

3. With effect from 3rd June, 1953, the post of Legal Remembrancer and Ex-officio Secretary to Government is abolished and its functions merged with those of the Law Secretary.

By Order of

His Highness the Rajpramukh,

B. G. RAO,

Chief Secretary to the Government.

*Published in Raj. Raj-patra Dated June 5, 1954 part 1 (a) at page 52 :*

### NOTIFICATION

Jaipur, May 26, 1954.

No. 4253/Appts. (A) 53.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (No. XIV of 1947), the Government of Rajasthan is pleased to direct that the following amendment shall be made in Appointments Department (A) Order of even number notified in the Rajasthan Gazette Extraordinary Part I dated June 2, 1953, namely:—

### AMENDMENT

The words "The appointment is at present sanctioned for the financial Year 1953 54", appearing in para 2 of the said Order, shall be deleted.

By Order of

His Highness the Rajpramukh

B. G. RAO.

Chief Secretary to the Government.

*Published in Raj. Raj-patra Dated September 25, 1954 part 1(a) at pages 154 to 155 :*

Jaipur, September 13, 1954

No. F. 15 (3) Lab./52.—In exercise of the Power conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), and in supersession of Government Notification No. F. 15 (3) Lab./52, dated 11th July, 1952, the Government of Rajasthan is pleased to appoint the following Officers to be Conciliation Officers for the areas noted against them.

*Designation.*

*Area.*

- |                           |     |                       |
|---------------------------|-----|-----------------------|
| 1. Labour Officer, Jaipur | ... | .... Jaipur Division. |
| 2. Labour Officer, Kotah  | ... | .... Kotah Division.  |

*Published in Raj. Raj-patra Dated September 25, 1954 part I (a) at page 155 :  
Jaipur, September 13, 1954.*

*No. F. 15 (3) Lab /52*—In exercise of the Power conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) and in supersession of Government Notification No. 1406/-Lab., dated 8th June, 1950, the Government of Rajasthan is pleased to appoint the following Officers to be Conciliation Officers for the area noted against them.

- |                            |      |                        |
|----------------------------|------|------------------------|
| 1. Labour Officer, Jodhpur | .... | .... Jodhpur Division. |
| 2. Labour Officer, Bikaner | .... | .... Bikaner Division. |

*Jaipur, September 13, 1954.*

*No. F. 15 (3) Lab /52*—In exercise of the Power conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), and in supersession of Government Notification No. F. 15 (3) Lab./52, dated 6th January, 1953, the Government of Rajasthan is pleased to appoint the Labour Officer, Bhilwara, to be Conciliation Officer for Udaipur Division.

By Order of  
His Highness the Rajpramukh,  
G.L. MEHTA,  
Secretary to the Government.

*Published in Raj. Raj-patra Dated April 14, 1956 part I (a) at page 23 :*

**NOTIFICATION**

*Jaipur, March 22, 1956.*

*No. D-1434/F 1(18)Lab./55*—In exercise of the powers conferred by section 7 read with section 8(2) of the Industrial Disputes Act, 1947 (XIV of 1947) the Government of Rajasthan is pleased to appoint with effect from the 22nd March, 1956, Shri Anand Narain Kaul R.J.S. (Higher) as the sole member of the Industrial Tribunal constituted by appointments Department Order No. 4253/Appts. (A) 53, dated the 2nd June, 1953 as amended by the Notification No. 4253/Appts (A)/53, dated the 26th May, 1954, in the vacancy caused by the retirement of Shri S.S. Mehta.

By Order of  
His Highness the Rajpramukh,  
R. N. HAWA,  
Secretary to the Government.

*Published in Raj. Raj-patra Dated November 8, 1956 part I (b) at page 653 :  
Jaipur, October 26, 1956.*

*No. D-16043/F. 1 (40) I/56*—Whereas the Government is satisfied that public interest requires that 'Sugar Industry' should be declared to be a public utility service.

Now, therefore, in exercise of powers conferred by sub-clause (vi) of clause (a) of Section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), the Government of Rajasthan hereby declares



'Sugar Industry' to be a public utility service for the purposes of the said Act for a period of six months with effect from 1st November, 1956.

By Order of  
His Highness the Rajpramukh,  
G. K. BHANOT,

Deputy Secretary to the Government.

*Published in Raj. Raj-patra Dated November 22, 1956 part IV (c) at page 645 :*

Labour Department

### NOTIFICATION

Jaipur, November 10, 1956.

No. D-5337/F. 25 (5) Lab./50/10406.—In exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (XIV of 1947), the Government of Rajasthan is pleased to direct that the powers of the State Government under section 3 of the said Act shall, with immediate effect, be exercised by the Officers mentioned below within the areas noted against each:—

- |   |                       |
|---|-----------------------|
| 1. The Labour Commissioner, Rajasthan,<br>Jaipur.     | Throughout Rajasthan. |
| 2. The Labour Officer, Jaipur Division,<br>Jaipur.    | Jaipur Division.      |
| 3. The Labour Officer, Jodhpur Division,<br>Jodhpur.  | Jodhpur Division.     |
| 4. The Labour Officer, Kotah Division,<br>Kotah.      | Kotah Division.       |
| 5. The Labour Officer, Bikaner Division,<br>Bikaner.  | Bikaner Division.     |
| 6. The Labour Officer, Udaipur Division,<br>Bhilwara. | Udaipur Division.     |

By Order of the Governor,  
R.N. HAWA,

Secretary to the Government.

*Published in Raj. Raj-patra Dated January 24, 1957 part I (b) at page 751 :*

Jaipur, January 11, 1957.

No. F. 1 (18) Lab./55.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the State Government hereby orders that the 1 member Industrial Tribunal constituted under order of the Government of the pre-Reorganisation State of Rajasthan in the Appointments (A) Department No. 4253/Appts. (A) 53, dated the 22nd June, 1953 shall also be the Industrial Tribunal for the Ajmer area, the Abu area and the Sunel area; and the person for the time being holding the office of the sole member of the first mentioned Tribunal shall also be the sole member of the last mentioned Tribunal.

Jaipur, January 11, 1957.

No. F. 9 (47) Lab./56. — Whereas by Notification No. 12/5/55-Lab, dated the 10th February, 1956, the Chief Commissioner,

Ajmer constituted an Industrial Tribunal consisting of Shri C. Jacob, District and Sessions Judge, Ajmer under section 7 read with section 8 (2) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) for deciding certain matters between the Rashtriya Mill Mazdoor Sangh and the Textile Labour Union, Beawar on the one side and the Edward Mills Co. Ltd., Beawar, Krishna Mills Co. Ltd. and Mahalakshmi Mills Co. Ltd., Beawar on the other side, (which were referred back by the Labour Appellate Tribunal in the circumstances mentioned in the said Notification;)

And whereas the services of Shri C. Jacob as an Industrial Tribunal ceased to be available on his appointment as the Judicial Commissioner, Ajmer from 14th February, 1956 to 3rd April, 1956 and whereas therefore a vacancy arose under section 8 of the Industrial Disputes Act, 1947;

And whereas in Civil (Writ) petition No. 22 of 1956 the Judicial Commissioner, Ajmer allowing the petition and issuing a writ of Certiorari quashing the proceedings taken by Shri C. Jacob as Tribunal after 14th February, 1956 and further issuing a writ of Prohibition, directed Shri C. Jacob not to proceed further with that particular adjudication of the dispute;

Now, therefore, the State Government in exercise of the powers conferred on it by section 8 (2) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) hereby fills the aforesaid vacancy caused by the appointment of Shri C. Jacob as Judicial Commissioner, Ajmer and appoints Shri A. N. Kaul of the Rajasthan Higher Judicial Service with effect from the date of issue of this notification as a sole member of the said Industrial Tribunal.

Note:—The Annexure to the said Notification is reproduced below.

“Annexure

1. Fixing up Rs. 35/- per month as the minimum basic wage of the lowest paid worker and relative increment, to all category of workers including piece workers, rates of wages payable to all classes of workers and all classes of work should be revised and standardised to secure a living wage standard and ensure a proper remuneration in suitable recognition of the strain and skill required in different processes of the industry.

2. Dearness allowance should be paid at the flat rate of Rs. 60/- per month per worker with provisions to increase or decrease with the rise or fall of the cost of living Index. Dearness should be paid separately on different dates.

3. Unconditional and lump sum amounting to  $\frac{1}{4}$  of the total earnings in a year (including dearness allowance) be given as bonus every year to an employee.

4. Increase of  $12\frac{1}{2}\%$  of in piece work rates.

5. Reduction in working hours from 9 to 8; and

6 Workers in night shifts be paid 15% extra as night allowance on the basic wage."

*Published in Raj. Raj-patra Dated February 21, 1957 part I (b) at page 807 :*

Industries (c) Department, Labour Section, Rajasthan.

### NOTIFICATIONS

Jaipur, February 4, 1957.

*No. F. 25 (5) Lab/50/885.*—In supersession of this Department Notification No. D. 5337/F. 25 (5) Lab./50, dated 10-11-56 and in exercise of the powers conferred by Section 39 of the Industrial Disputes Act, 1947 (XIV of 1947), the Government of Rajasthan, due to the formation of New State of Rajasthan from 1st November, 1956, directs that the powers vested in the State Government under Section 3 of the aforesaid Act for formation of Works Committees and other matters pertaining hereto shall, with effect from 1st November, 1956, be exercised by the officers mentioned below, with in their Jurisdiction as noted against each:—

- |                                       |      |  |
|---------------------------------------|------|--|
| 1. The Labour Commissioner, Rajasthan | .... | Throughout the New State of Rajasthan.                                 |
| 2. The Labour Officer, Jaipur         | .... | Ajmer Division excluding Ajmer District.                               |
| 3. The Labour Officer, Ajmer          | .... | Ajmer District.  |
| 4. The Labour Officer, Jodhpur        | .... | Jodhpur Division including Abu Road Taluka.                            |
| 5. The Labour Officer, Kota           | .... | Kota Division including Sunel Tappa and excluding Sironj Sub-District. |
| 6. The Labour Officer, Bikaner        | .... | Bikaner Division.  |
| 7. The Labour Officer, Bhilwara       | .... | Udaipur Division.  |

*Published in Raj. Raj-patra Dated July 25, 1957 part I (b) at page 181 :*

Industries (c) Department

(Labour Section)

### NOTIFICATION

Jaipur, July 13, 1957.

*No. J. 9/64/Lab/56/4522.*—In exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (Central Act XIV. of 1947), the Government of Rajasthan is pleased to direct that the powers exercisable by it under section 33C of the said Act shall be exercisable also by the Labour Commissioner, Rajasthan, Jaipur for the dispute between the management and the workers of the Bijaya Cotton Mills, Bijainagar.

By Order of the Governor,  
G. K. BHANOT,

Deputy Secretary to the Government.

*Published in Raj. Raj-patra Dated August 6, 1958 part I (b) at page 35 :*

Industries 'C' Department

(Labour Section)

NOTIFICATION

Jaipur, August 2, 1958.

*No. F. 5 (48) Lab./58.*—In pursuance of the power conferred by sub-section (1) of section 34 of the Industrial Dispute Act, 1947 (14 of 1947), the State Government does hereby authorise the Municipal Board, Bikaner, to make complaints in respect of offences punishable under sections 26 and 27 of the said Act committed by their employees.

By Order of the Governor,

A. K. ROY,

Secretary to the Government.

*Published in Raj. Raj-patra Dated August 28, 1958 part IV (c) at page 865 :*

Industries 'C' Department

(Labour Section)

NOTIFICATIONS

Jaipur, August 7, 1958.

*No. F. 9 (43) Lab./56.*—In exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Rajasthan is pleased to direct that the powers exercisable by it under sub-section (1) of section 33C of the said Act shall be exercisable also by the Labour Commissioner, Rajasthan, Jaipur, provided that the amount to be recovered does not exceed rupees one thousand.

*Published in Raj. Raj-patra Dated December 11, 1958 part IV (c) at page 1258 :*

Industries (c) Department  
(Labour Section.)

NOTIFICATION

Jaipur, November 22, 1958.

*No. F. 3 (32) LAB/58*—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (XIV of 1947) the Government of Rajasthan hereby appoints in virtue of their office, the following Labour Inspectors to be the Conciliation Officers for the areas noted against each, namely:—

- |                               |  |
|-------------------------------|--|
| 1. Labour Inspector, Jaipur   | Ajmer Division excluding Ajmer District. |
| 2. Labour Inspector, Jodhpur  | Jodhpur Division.                        |
| 3. Labour Inspector, Bikaner  | Bikaner Division.                        |
| 4. Labour Inspector, Bhilwara | Udaipur Division.                        |
| 5. Labour Inspector, Kotah    | Kotah Division.                          |
| 6. Labour Inspector, Ajmer    | Ajmer District.                          |

By Order of the Governor,  
A. K. ROY,

Secretary to the Government.

*Published in Raj. Raj-patra Dated August 21, 1958 part I (b) at page 704 :*

Industries 'C' Department  
(Labour Section)

NOTIFICATION

Jaipur, August 2, 1958.

*No. F. 5 (48) Lab./58*.—In pursuance of the power conferred by sub section (1) of section 34 of the Industrial Dispute Act, 1947 (14 of 1947), the State Government does hereby authorises the Municipal Board, Bikaner, to make complaints in respect of offences punishable under sections 26 and 27 of the said Act committed by their employees.

By Order of the Governor,  
A. K. ROY,

Secretary to the Government.

*Notifications under*

## **Industrial Disputes Act, 1947.**

*Published in Raj. Raj-patra part I (b) dated March 12, 1959 at page 1273*

Industries (C) Department  
(Labour section)  
NOTIFICATIONS

Jaipur, January 12, 1959.

No. D. 14380/F 9 (43)/Lab./57.—In pursuance of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Government of Rajasthan hereby cancels its Notification No. F. 9 (43) Lab./56. dated the 7th August, 1958 with effect from the 10th October, 1958.

Jaipur, January 12, 1959.

No. D. 88 F. 5 (28/Lab 58.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) the Governor of Rajasthan is pleased to publish the following Award of the Industrial Tribunal, Jaipur in the Industrial dispute between the Management of the Lokwani Society, Jaipur and its workmen represented by Rajasthan Vyapar Karamchhari Singh, Jaipur.

*Published in Raj. Rajpatra part I (b) dated March 12, 1959 at page 1275*

### **NOTIFICATION**

Jaipur, January 15, 1959.

No. D. 17238 F. 5 (72) Lab. 58.—In exercise of the powers conferred by the proviso (b) to section 9A of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Government of the State of Rajasthan hereby notifies that no notice shall be required for effecting any change in the conditions of service of the Workmen to whom the Indian Airlines Corporation Employees' Service Regulations 1955, apply.

By Order of the Governor,  
A. K. ROY,  
Secretary to the Government.

*Published in Raj. Raj-patra part IV (c) dated April 16, 1959 at page*

Industries (C) Department  
NOTIFICATIONS

Jaipur, April 16, 1959.

No. D. 2585/H. 4 (2) Ind. (C) 59/2767.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (Act, XIV of 1947), as amended by Act No. XXXVI of 1956 and No. XLI of 56, the Government of Rajasthan hereby constitutes with immediate effect, a Labour Court for the adjudication of Indus-

trial Disputes relating to the matters specified in the Second Schedule of the said Act, arising in Rajasthan, and appoints Shri A. N. Kaul, Judge, Industrial Tribunal, as the Presiding Officer of the said Court.

Jaipur, April 16, 1959

No. D. 2585/F. 4 (2) Ind. (C)/59/2770.—In exercise of the Power conferred by section 7-A of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Rajasthan hereby constitutes with immediate effect, for the adjudication of Industrial Disputes arising in the State of Rajasthan; an Industrial Tribunal consisting of Shri Anand Narain Kaul.

By Order of the Governor,  
A. K. ROY,  
Secretary to the Government.

*Published in Raj. Raj-patra part I (b) dated July 2, 1959 at page 156*

Jaipur, May 3, 1959.

No. D. 3171 F. 9 (93) Lab./57.—In supersession of Government Notification No. F. 9 (93) Lab./58, dated the 30th September, 1958, and in exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947, (Central Act XIV of 1947) the Government of Rajasthan is pleased to direct that the powers exercisable by it under sub-section (1) of section 33C of the said Act, shall now be exercisable by the Labour Court constituted vide Government Notification No. D. 2535/F. 4 (2)/Ind. (C)/59, dated the 16th April, 1959.

By Order of the Governor,  
A. K. ROY,  
Secretary to the Government.

*Published in Raj. Raj-patra part I (b) dated September 10, 1959 at page 293*

### Industries (C) Department

### NOTIFICATIONS

Jaipur, July 23, 1959.

No. D. 3181/F.5 (40) Ind. (C)/59.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act No XIV of 1947) and in continuation of this Department Notification No. F. 1 (12)/Lab./57, dated the 29th April, 1957, the State Government hereby further appoints the undermentioned officers by virtue of their office to be Conciliation Officers for carrying out the purposes of the said section, for the area specified against each:—

Name of the officer	Jurisdiction
1. Regional Assistant Labour Commissioner, with head-quarters at Jaipur.	Ajmer and Kotah Divisions.

2. Regional Assistant Labour Commissioner with head-quarters at Jodhpur. Bikaner, Jodhpur and Udaipur Divisions.

Jaipur, July 23, 1959.

No. D. 4576/F. 5 (29)/Ind.(C)/59.—Whereas an Industrial Dispute specified below has arisen between the Management of M/s Krishna Mills Ltd, Beawar and the Rashtriya Mill Mazdoor Sangh, Beawar;

Whereas the Conciliation Officer Beawar has reported that no settlement could be arrived at;

Whereas upon a consideration of the report of the said Conciliation Officer the State Government is satisfied that there is a case for reference to Tribunal;

Now, therefore, in exercise of the powers conferred by sub-section (5) of section 12 read with clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the State Government does hereby refer the aforesaid dispute for adjudication to the Industrial Tribunal, Rajasthan, Jaipur, duly constituted by the State Government under the Industrial Disputes Act, 1947 (Act No. XIV of 1947).

### DISPUTE

(1) Whether the out affected in the wages of the piece-rated workers contrary to the provisions of the notification dated 8-10-52 should be stopped and the difference so far deducted during the last two years be paid to the workers ?

(2) Whether the workers (including watch and ward staff) who had resigned on and from 1-9-56 did so under coercion or under pressure or compelling circumstances? If so, whether this amounts to illegal retrenchment ?

(3) Whether the rates of wages of piece-rated workers have been fixed contrary to the provisions contained in the Notification dated 8-10-52 ? The rates be so fixed as to enable them to get minimum basic wages prescribed under the said notification.

(4) Whether for appointment and promotions etc. etc. rules be framed on the model of Badli Rules framed by the erstwhile State of Ajmer ?

(5) Whether every worker (including members of watch and ward staff) should be entitled to get 50% of the total monthly emoluments as advance from employers without payment of any interest.

(6) Whether workers working on permanent posts be made permanent on those posts and they should not be allowed to be kept vacant for more than 4 months. The unhappy practice of causing breaks in their services be stopped



*Published in Raj. Raj-patra part IV (c) dated May 12, 1960 at page 23-24*

Jaipur, May 12, 1960.

No. D. 5176/F. 5 (11)/Ind. (C)/90.—In exercise of the powers conferred by section 9B of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Government of Rajasthan is of the opinion that the public interest so requires that the application of the provisions of section 9A of the said Act is likely to affect the employers in relation thereto so prejudicially that such application may cause serious repercussions on the industry, hereby directs that the provisions of the said section shall not apply to the Edward Mills Co. Ltd., Beawar.

By Order of the Governor,  
R. K. CHATURVEDY,  
Secretary to the Government.

*Published in Raj. Raj-patra part IV (c) dated May 24, 1960 at page 37*

Industries (C) Department

Labour Section

### NOTIFICATION

Jaipur, May 24, 1960.

No. D. 5176/F.5. (11)/Ind. (C)/60 —In exercise of the powers conferred by section 9B of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Government of Rajasthan is of the opinion that the public interest so requires that the application of the provisions of section 9A of the said Act is likely to affect the employers in relation thereto so prejudicially that such application may cause serious repercussions on the industry, hereby directs that the provisions of the said section shall not apply to the Mewar Textile Mills Ltd., Bhilwara.

By Order of the Governor,  
R. K. CHATURVEDI,  
Secretary to the Government.

*Published in Raj. Raj-patra part I (b) dated August 25, 1960 at page 276*

Industries 'C' Department

### NOTIFICATION

Jaipur, July 19, 1960.

No. D. 5590/F. 5.62) Ind.(C)/.60—In exercise of the powers conferred by sub-section (2) of section 33C of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the State Government hereby specifies the Labour Court, Rajasthan, constituted *vide* this Department Notification No. D. 2585/F. 4 (2) Ind. (C)/59 dated 16-4-59 to determine the money value of a benefit which any workman is entitled to receive from his employer and which is capable of being computed in terms of money.

By Order of the Governor,  
R. K. CHATURVEDY,  
Secretary to the Government.

*Published in Raj. Rajpatra part IV (c) dated September 8, 1960 at page 287*

Jaipur, August 27, 1960.

*No. F. 3 (21)/Lab./59.*—In exercise of the powers conferred by sub-section (2) of section 3 A of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the State Government hereby appoints the Assistant Labour Commissioner (implementation and Evaluation) as Assistant Registrar of Unions for the whole of the State and confers upon him all the powers of the Registrar of Unions, for purpose of this Act.

Jaipur, August 27 1960.

*No. F. 3 (21)/Lab./59.*—In exercise of the powers conferred by sub-section (1) of section 3 A of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the State Government hereby appoints the 'Deputy Labour Commissioner (Laws)' as the Registrar of Unions, for the purpose of this Act for the whole of the State.

*Published in Raj. Raj-patra part I (b) dated December 8, 1960 at page 451.*

*Labour Department*

## NOTIFICATIONS

Jaipur, November 10, 1960

*No. F. 3 (61)Ind (C)/60.*—In exercise of the powers conferred by article 258 A of the Constitution, the Government of Rajasthan hereby empowers the Central Government to exercise the functions of "Appropriate Government" for the purposes of dealing with industrial disputes arising between the Employees' State Insurance Corporation and their employees, under the Industrial Disputes Act, 1947, throughout the States of Rajasthan.

Jaipur, November 18, 1960.

*No. F. 3 (100)/Lab/60.*—In exercise of the powers conferred by proviso (b) to section 9 A of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the State Government hereby notifies that no notice shall be required for effecting any change in the conditions of service of the workmen to whom the Air India International Employees' Service Regulations apply.

By Order of the Governor,  
GOVERDHAN SINGH,  
*Secretary to the Government.*

*Published in Raj. Raj-patra part IV (c) dated April 27, at page 1 :*

Labour Department

NOTIFICATION

*Jaipur, April 26, 1961.*

No. F. 5 (13)/Lab./61.—Whereas the State Government is satisfied that public interest requires that "Air Transport" services operating in the State of Rajasthan should be declared to be a Public Utility Service.

Now, therefore, in exercise of the powers conferred by sub-section (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), the State Government hereby declares "Air Transport Service" to be public utility service for the purpose of the said Act for a further period of six months with effect from 29th April, 1961.

By Order of the Governor,  
GULAB SINGH,

Deputy Secretary to Government.

*Published in Raj. Raj-patra part IV (c) dated October 24, 1961 at page 1 :*

Labour Department

NOTIFICATION

*Jaipur, October 24, 1961.*

No. F. 5 (13) Lab./61.—Whereas the State Government is satisfied that the public interest requires that "Air Transport" services operating in the State of Rajasthan should be declared to be a Public Utility Service.

Now, therefore, in exercise of the powers conferred by sub-section (vi) of clause (n) of section 2 of the Industrial Dispute Act, 1947 (XIV of 1947) the State Government hereby declares "Air Transport Service" to be a Public Utility Service for the purpose of the said Act for a further period of six months with effect from the 29th October, 1961.

By Order of the Governor,  
D GOSWAMI,

Deputy Secretary to the Government.

*Published in Raj. Raj-patra part IV (c) dated May 24 1962, at page 1 :*

Labour Department

NOTIFICATION

*Jaipur, May 9, 1962.*

No. F. 5 (13)/Lab./61.—Whereas the State Government is satisfied that public interest requires that "Air Transport" services operating in the State of Rajasthan should be declared to be a Public Utility Service.

Now, therefore, in exercise of the powers conferred by sub-section (vi) of clause (n) of section 2 of the Industrial Dispute Act, 1947 (XIV of 1947), the State Government hereby declares "Air Transport Service" to be a Public Utility Service for the purpose of said Act for further period of 6 months with effect from 29-4-62.

By Order of the Governor,  
D. GOSWAMI,

Deputy Secretary to the Government.

*Published in Raj. Raj-patra part IV. (c) dated November 22, 1962 at page 593-599*

*Jaipur, October 15, 1962.*

No. F. 3 (109) Lab./61 —In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and in supersession of this Department Notification No. F. 1 (12) Lab./57 dated the 28th

April, 1957, the State Government hereby appoints the following Officers in virtue of their office, to be Conciliation Officers, for the area noted against each, namely:—

1. Labour Commissioner,  
Rajasthan, Jaipur ... For whole of Rajasthan.
2. Deputy Labour Commissioner, (Laws) Rajasthan,  
Jaipur ... For whole of Rajasthan.
3. Labour Officer, Jaipur ... For Jaipur, Sawaimadhopur, Alwar and Bharatpur Districts.
4. Labour Officer, Ajmer ... For Ajmer, Sikar and Jhunjhunu Districts.
5. Labour Officer, Kota ... For Kota, Bundi, Jhalawar and Tonk Districts.
6. Labour Officer, Jodhpur ... For Jodhpur, Pali, Sirohi, Barmer, Jalore and Jaisalmer Districts.
7. Labour Officer, Bikaner ... For Bikaner, Sriganganagar, Churu and Nagaur Districts.
8. Labour Officer, Bhilwara ... For Bhilwara, Chittorgarh, Udaipur, Dungarpur and Pratapgarh District.

*Jaipur, October 15, 1962.*

No. F. 3 (109) Lab/61.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) and in supersession of this Department Notification No. D. 3181/F. 5 (40)Ind. (C)/59 dated the 23rd July, 1959, the State Government hereby appoints the following officers, in virtue of their office, to be Conciliation Officers for carrying out the purposes of the said section, for the area specified against each:—

1. Regional Assistant Labour Commissioner, Jaipur ... For Jaipur, Sawaimadhopur, Alwar, Bharatpur, Ajmer, Sikar, Jhunjhunu, Kota, Bundi, Jhalawar and Kota Districts.
2. Regional Assistant Labour Commissioner, Jodhpur ... For Jodhpur, Pali, Sirohi, Barmer, Jalore, Jaisalmer, Bikaner, Sriganganagar, Churu, Nagaur, Bhilwara, Chittorgarh, Udaipur, Dungarpur and Pratapgarh Districts.

*Jaipur, October 15, 1962.*

No. F. 3 (109) Lab./61/4305.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) and in supersession of this Department Notification No. F. 3 (32) Lab./58/ dated the 2nd November, 1958, the State Government hereby appoints, in virtue of their office, the following Labour Inspectors to be the Conciliation Officer for the areas noted against each, namely:—

1. Labour Inspector, Jaipur. ... For Jaipur, Sawaimadhopur, Alwar and Bharatpur Districts.
2. Labour Inspector, Jodhpur. ... For Jodhpur, Pali, Sirohi, Barmer, Jalore and Jaisalmer Districts.
3. Labour Inspector, Bikaner. ... For Bikaner, Sriganganagar, Churu and Nagaur Districts.
4. Labour Inspector, Bhilwara. ... For Bhilwara, Chittorgarh, Udaipur, Dungarpur and Pratapgarh Districts.
5. Labour Inspector, Kota. ... For Kota, Bundi, Jhalawar and Tonk Districts.
6. Labour Inspector, Ajmer. ... For Ajmer, Sikar and Jhunjhunu Districts.

*Jaipur, October 15, 1962.*

No. F. 3 (109) Lab./61.—In exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and in supersession of this Department Notification No. F. 25 (5) Lab/50/885 (1) dated the 14th February, 1957, the State Government hereby directs that the powers exercisable by it under section 3 of the aforesaid Act in relation to formation of Works Committees and other matters pertaining thereto shall, with effect from the date of publication of this notification in the official Gazette, be exercisable also by the following officers within their jurisdiction as noted against each:—

1. Labour Commissioner ... For whole of Rajasthan.
  2. Deputy Labour Commissioner (Laws) Rajasthan, Jaipur ... For whole of Rajasthan.
  3. Labour Officer, Jaipur ... For Jaipur, Sawaimadhopur, Alwar and Bharatpur Districts.
  4. Labour Officer, Ajmer ... For Ajmer, Sikar and Jhunjhunu Districts.
  5. Labour Officer, Jodhpur ... For Jodhpur, Pali, Sirohi, Barmer, Jalore and Jaisalmer Districts.
  6. Labour Officer, Kota ... For Kota, Bundi, Jhalawar and Tonk Districts.
  7. Labour Officer, Bikaner ... For Bikaner, Sriganganagar, Churu, and Nagaur Districts.
  8. Labour Officer, Bhilwara ... For Bhilwara, Chittorgarh, Udaipur, Dungarpur and Pratapgarh Districts.
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*Notifications under*

**INDUSTRIAL DISPUTES ACT, 1947**

**Labour Department**

**NOTIFICATION**

**Jaipur, January 2, 1965.**

No. F. 3 (55) Leb./62.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 ( Central Act 14 of 1947), the State Government hereby appoints the following officers, in virtue of their offices to be Conciliation Officers, for the area noted against each namely:—

- |   |                               |
|---|-------------------------------|
| 1. Deputy Labour Commissioner, (Administration)<br>Rajasthan, Jaipur. | For the whole<br>of Rajasthan |
| 2. Deputy Labour Commissioner, ( Welfare ),<br>Rajasthan, Jaipur.     | do                            |
| 3. Assistant Labour Commissioner (Headquarter)<br>Rajasthan, Jaipur.  | do                            |

By Order of the Governor,  
S.P. SINGH BHANDARI  
Secretary to the Government.

[Pub. in Raj. Gaz. Part 1 (B) Dt. 31-1-63 at Page 201 ]

**Labour & Employment Department**

**Jaipur, January 12, 1967.**

Notification No. F. 3 [8] L&E/64.—Whereas, the State Government is of the opinion that it is expedient or necessary in the public interest to add to the first schedule to the Industrial Disputes Act, 1947 (Act No. 14 of 1947), the "the Zinc Smelter".

Now therefore, in exercise of the powers conferred under sub-section (1) of section 40 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) the State Government hereby adds the following item in the first Schedule to the said Act after item 15 thereof namely ;

16. Zinc Smelter.

[Pub. in Raj. Gaz. 4 (Ga)—Dt. 25-5-67—Page 196]

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*Rules and Notifications under*

INDUSTRIAL DISPUTES (RAJ. AMENDMENT) ACT, 1958  
THE RAJASTHAN ( No. 34 OF 1958 ).

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*Notifications under*

**INDUSTRIAL DISPUTES (RAJASTHAN AMENDMENT)  
ACT, 1958.**

*Published in Raj. Raj-pat. & part IV (c) dated June 27, 1960 at page 91*

*Industries (C) Department*

**NOTIFICATIONS**

**Jaipur, June 24, 1960.**

*No. D. 816/F. 3 (21)/Lab/59.*—In exercise of the powers conferred by sub-section (2) of section 1 of the Industrial Disputes (Rajasthan Amendment) Act, 1958 (34 of 1958) the State Government hereby appoints 1st day of July, 1960, as the date on which the provisions of the said Act, shall come into force in the State of Rajasthan.



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*Rules and Notifications under*

INDUSTRIAL EMPLOYMENT (STANDING ORDERS)  
ACT, (CENTRAL ACT, No. 20 OF 1946)

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# RAJASTHAN INDUSTRIAL EMPLOYMENT (STANDING ORDERS) RULES, 1963

Notification No. F. 3 (18) Lab./63.—In exercise of powers conferred by section 15, of the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946), the State Government hereby makes the following rules regulating standing orders in industrial employments in Rajasthan, the same having been previously published as required by sub-section (1) of the said section, namely :—

1. Short title and extent.—(1) These rules may be called the Rajasthan Industrial Employment (Standing Orders) Rules, 1963.

(2) They shall extend to the whole of the State of Rajasthan and shall apply to all Industrial Establishments in the State, to which the Act applies.

2. Interpretation.—If these rules, unless there is anything repugnant in the subject or context—

(a) "Act" means the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946);

(b) "Form" means a form set out in Schedule II appended to these rules.

3. Model Standing Orders.—The Model Standing Orders for the purposes of the Act shall be those set out in Schedule I appended to these rules.

4. Additional matters.—The following additional matters shall be included in Schedule I to the Act.

(1) Procedure for recruitment of badlies.

(2) Conditions for abolitions of posts,

(3) Conditions for promotion of workmen whether on temporary or permanent basis.

5. Rules in respect of Additional Matters.—Within six months from the date on which additional matters are included in Schedule I to these rules, every employer of an Industrial Establishment shall apply to the Certifying Officer submitting five copies of the Draft Standing Orders, in which shall be included modifications on account of the said additional matters, which he proposed to make in the standing orders previously certified.

6. Joint draft Orders.—A group of employers in similar Industrial Establishments may submit a joint draft of standing orders under sub-section (4) of section 3 of the Act to the Certifying Officer, by registered post acknowledgement due.

**7. Application for certification.**—(1) An application for Certification of standing Orders shall be made in Form I.

(2) An application for certification of joint draft Standing Orders shall be made in Form IV and shall be accompanied by such number of the joint draft standing orders as shall equal the number of trade unions of which the workmen working in any industrial establishment concerned are members, plus the number of the other industrial establishments, whose workmen are not members of any trade unions, plus five.

The application shall also be accompanied by the particulars prescribed in rule 8 in respect of each industrial establishment intending to adopt the joint draft standing orders.

**8. Prescribed particulars of workmen.**—The prescribed particulars of workmen, for the purpose of sub-section (3) of section 3 of the Act, shall be :—

- (1) total number employed ;
- (2) number of permanent workmen ;
- (3) number of temporary workmen ;
- (3) number of badlies or substitutes ;
- (5) number of probationers ;
- (6) number of apprentices ;
- (7) name of the trade union or trade unions, if any, to which the workmen belong ; and
- (8) remarks.

**9. Scrutiny by the Certifying Officer.**—On receipt of the application under rule 7, the Certifying Officer shall scrutinize whether all the requirements have been fulfilled and shall require the employer to comply with such directions as may be deemed necessary to bring the draft Standing Orders in conformity, with the provisions of the Act and these rules.

**10. Procedure by the Certifying Officer.**—As soon as may be after he receives an application under rule 7 in respect of an industrial establishment the Certifying Officer shall—

- (a) Where there is a trade union of workmen, forward a copy of the draft Standing Orders to the trade union together with a notice in Form II.
- (b) Where there is no such trade union, call a meeting of the workmen to elect three representatives to whom he shall upon their election, forward a copy of the draft Standing Orders, together with a notice in Form II.

**11. Translation in other Languages.**—In case the workmen represent that they are unable to follow the exact implications of the draft Standing Orders and would prefer to have a translation of draft Standing Orders before forwarding their comments, the Certifying Officer may require the employer to furnish such number of copies of the joint draft Standing Orders as he may consider necessary in the circumstances, in such languages as are

understood and spoken by the labour employed in the industrial establishment applying for joint Standing Orders.

On being so required by the Certifying Officer, the employer shall furnish the necessary translation within a fortnight or such extended period as may be permitted by the Certifying Officer,

**12. Opportunity of hearing to the persons making objections and suggestions.**—(1) On receipt of the various objections and suggestions, received within fifteen days or such extended period, as the Certifying Officer may permit, the Certifying Officer shall give to the employer and the trade union and such other representatives of the workmen as have been elected by the individual industrial establishments, an opportunity of being heard, as required under sub-section (2) of section 5 of the Act :

Provided that where the number of representatives of the workmen exceeds twelve, the Certifying Officer may require that the representatives of the workmen shall call a joint meeting among themselves and elect by two-third majority, a number of their representatives which shall not exceed twelve.

(2) A meeting for holding such election shall be held after one week's notice given by the Certifying Officer to the various representatives and shall be attended by an Officer of the Labour Department, as an observer.

(3) The representatives of the employers for this purpose shall be deemed to be the signatories to the application made in Form IV :

Provided that such signatories may also be accompanied by other representatives of the employers, who intend to adopt the joint draft Standing Orders, but the total number of the representative of employers shall not exceed twelve.

(4) If any of the representatives of the employers or the workmen, who are not eligible to attend the joint discussions in accordance with the provisions of sub-rules (1) and (2) above, desire to be heard, it shall be within the discretion of the Certifying Officer to admit any of them to the joint discussions.

**13. Authentication and Communication of Standing Orders:**—Standing Orders certified in pursuance of sub-section (3) of section 5 or sub-section (2) of section 6 of the Act shall be authenticated by the signature and seal of office of the Certifying Officer or the Appellate Authority, as the case may be and shall be forwarded by such officer or authority within a week of authentication by Registered Post to the employers and to the Trade Union or as the case may be, to the representatives of the workmen elected in pursuance of rule 10 (b).

**14. Register of Standing Orders:**—The register required to be maintained by section 8 of the Act shall be in Form III and shall be properly bound and the Certifying Officer shall furnish a copy of Standing Orders approved for an industrial establishment to any person applying therefor on payment of a fee of rupee one per copy.

## SCHEDULE I.

### Model Standing Orders.

1. **Commencement.**— These orders shall come into force on the day on which the period mentioned in section 7 of the Act expires.

2. **Classification of workmen.**—(a) Workmen shall be classified as :—

- (1) Permanent.
- (2) Probationers.
- (3) Badlis.
- (4) Temporary.
- (5) Casual.
- (6) Apprentices.

(b) A "Permanent" workman is a workman who has been engaged on a Permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal strike) of voluntary closure of the establishment.

(c) A "Probationer" is a workman, who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. This period of probation can be raised to six months in highly skilled services, if the workman does not show skill within three months. If a permanent employee is employed as a probationer in a new post he may at any time during the probationary period of three months be reverted to his old permanent post.

(d) A "Badli" is a workman, who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "Temporary" workman is a workman, who has been engaged for work, which is of an essentially temporary nature likely to be finished within a limited period.

(f) A "Casual" workman is a workman, whose employment is of a casual nature.

(g) An "Apprentice" is a learner, who is not a Paid an allowance during the period of his training.

3. **Tickets.**—(1) Every workman shall be given a permanent ticket unless he is a Badli, temporary or a casual worker or an apprentice.

(2) Every permanent workman including the probationer shall be provided with a department's ticket showing his number and shall, on being required to do so, show it to any person authorised by the Manager to inspect it and in the case of a probationer, the word 'P' shall be marked on the permanent ticket to distinguish his position from that of the Permanent workman.

(3) Every badli shall be provided with a badli card; on which shall be entered the days, on which he has worked in the establishment and which shall be surrendered, if he obtains permanent employment.

(4) Every temporary workman shall be provided with a temporary ticket which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a casual card on which shall be entered the days, on which he has worked in the establishment.

(6) Every apprentice shall be provided with an "Apprentice" card which shall be surrendered, if he obtains permanent employment.

4. Recruitment of Badlis.—(a) A register containing the names of badli workmen separately in respect of each grade department and according to the order of seniority of the service of workmen, shall be maintained by the employer. The list shall contain the number of total workmen equivalent to 15 percent, of the strength of each grade and class of work in the department.

Explanation.—Seniority shall be based as reckoned from the date the badli worker has accepted badli for the first time and thereafter from the date he has begun to present himself regularly for appointment as a badli.

(b) The badli workmen shall be provided employment in the respective department in the order of seniority as provided in the list.

5. Conditions for Abolition of Posts.—No permanent post shall be abolished unless the incumbent thereof is provided with equivalent job or has been retrenched in accordance with section 25F of the Industrial Disputes Act, 1947

6. Conditions for Promotion of Workmen on Temporary or on Permanent Basis.—(a) Promotions, whether officiating or permanent, shall be granted without discrimination and with due regard to seniority of the workmen.

(b) Notwithstanding anything contained in sub-clause [a] above, the following procedure may be adopted in the case textile mills and particularly in spinning department:—

- (i) Doffer boys shall be given officiating promotion as half piecers by rotation. Permanent vacancies of half piecers shall be filled up according to seniority.
- (ii) Piecers shall be promoted to work as doublers in accordance with seniority.

7. Settlement of Disputes.—(i) If any dispute arises relating to recruitment, conditions for abolition of posts and conditions for promotion of workmen on temporary or on permanent basis as laid down in clauses 5 and 6 in this Schedule, it shall be decided by a Committee consisting of the following—

- (i) Two representatives of employers.
- (ii) Two representatives of employees duly nominated by the workmen's union recognised for the purpose by the State Government.
- (iii) One representative of the State Government belonging to the Labour Department, who will also act as Chairman of the Committee.

This Committee shall function for two years from the date of its nomination by the Government.

(2) The Committee's decision shall be by a majority of votes. In case there is equality of votes, the Chairman shall have a casting vote.

(3) The decision of the Committee shall be communicated to the parties in dispute within 7 days of its decision. Any person aggrieved by the decision of the Committee may prefer an appeal to the Labour Commissioner within a month of communication of such decision and the decision of the Labour Commissioner shall be final and binding on the parties.

8. **Publication of working Time.**—The periods and hours of work for all classes of workers in each shift shall be exhibited in Hindi and in the principal languages of the workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

9. **Publication of holdings and pay days.** Notices specifying—

(a) the days observed by the establishment as holidays; and

(b) pay days shall be posted on the said notice boards.

10. **Publication of wage rates.**—Notices specifying the rates of wages payable to all classes of workmen and/or all classes of work shall be displayed on the said notice board.

11. **Shift working.**—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without proper notice as required by law having been given prior to such discontinuance, provided that no such notice shall be necessary if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working any permanent workmen are to be discharged, they shall be discharged having regard to the provisions laid down under Chapter V-A of the Industrial Disputes Act, 1947. those with the shortest term of service being discharged first. If shift working is restarted, a week's notice thereof shall be given by posting a notice at the main entrance to the establishment and the time keeper's office and by giving publicity in at least one of the Hindi daily paper and by informing the trade union/s in writing and the workmen discharged as a result of discontinuance of the shift, shall, if they present themselves at the time of the restarting of the shift, have preference in being re-employed, having regard to the length of their previous service under the establishment. those with the longest term of service being re-employed first.

12. **Attendance and late coming.**—All workmen shall be at work at the establishment at the times fixed and notified under paragraph 8. Workmen attending late will be liable to deductions provided for in the Payment of Wages Act, 1936.

13. Leave.—(1) Holidays with pay will be allowed as provided for in Chapter VIII of the Factories Act, 1948 and other holidays including National and Festival Holidays in accordance with law, contract, custom and usage.

(2) A workman, who desires to obtain leave of absence shall apply to the manager, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day, if the leave asked for is granted, a leave-pass shall be issued to the worker. If the leave is refused or postponed the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him; if the workman after proceeding on leave desires an extension thereof he shall apply to the manager, who shall send a written reply either granting or refusing extension of leave to the workman, if his address is sent along with the extension applicable or is available in the records of the establishment provided such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he returns within 8 days of the expiry of the leave and explains to the satisfaction of the Manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the badli list.

14. Casual leave.—A workman shall be granted casual leave of absence not exceeding 10 days in the aggregate in a calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances, which cannot be foreseen. Ordinarily the previous permission of the Departmental or sectional head of establishment shall be obtained before such leave is taken but when this is not possible the departmental or sectional head shall, as soon as may be practicable be informed in writing of the absence from duty and of the probable duration of such absence, in person or through some one.

15. Payment of wages.—(1) Any wages due to the workman but not paid on the usual pay days on account of their being unclaimed shall be paid by the employer on an unclaimed wages pay day in each week which shall be notified on the notice board as aforesaid.

(2) All workmen shall be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.



**16. Stoppage of work.**—(1) The employer at any time in the event of fire catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other causes beyond the control of the management, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workman affected shall be notified by notices put upon the notice board in the department concerned, or at the office of the manager, as soon as practicable when work will be resumed and whether they are to remain at or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of piece rate workers, the average daily earning for the previous month shall be taken to be the daily wage, otherwise the compensation will be admissible in case of such stoppages. Wherever practicable reasonable notice shall be given of resumption of the normal work.

(3) In cases, where workmen are laid off for short periods on account of failure of plant or temporary curtailment of production the period of layoff shall be governed in accordance with section 25C of the Industrial Disputes Act, 1947. When, however, workman have to be laid-off for an indefinitely long period, their services may be terminated after giving them due notice of pay in lieu thereof in accordance with the provisions laid down in Chapter V-A of the Industrial Disputes Act, 1947.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

**17. Termination of employment.**—(1) For terminating employment of workmen whether permanent or temporary, sufficient reasons shall be advanced why services of the workmen are being terminated and in the case of employees who have completed not less than one year of continuous service under an employer, the retrenchment shall be governed in accordance with the law and procedure provided under the Industrial Disputes Act, for the time being in force.

(2) Service, however, of the casual and purely temporary nature staff engaged wholly for the period of temporary work may be terminated on the completion of such work. The workmen so engaged shall not be entitled to any notice or pay in lieu thereof. Services of such workmen shall

not be terminated as punishment unless the affected workman or workmen are given opportunity of explaining the charges of misconduct alleged against him/them, in the manner prescribed in paragraph 18.

(3) Where the employment of any workman is terminated the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

18. Disciplinary action for misconduct.—(1) A workman may be fined upto two per cent of his wages in a month for any act and omission as may be specified by notice under sub-section (2) of section 89 of the Payment of Wages Act, 1936 (Central Act IV of 1936),

(2) A workman may be suspended for a period not exceeding four days at a time or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of any misconduct.

The following acts and omissions shall be treated as misconduct:—

- (a) theft, fraud or dishonesty in connection with the employer's business or property ;
- (b) wilful insubordination or disobedience ; whethr alone or in combination with others ; to any lawful or reasonable order of superior ;
- (c) wilful charge to or loss of employer's goods or property ;
- (d) taking or giving bribes or illegal gratification ;
- (e) habitual absence without leave or absence without leave for more than 10 days ;
- (f) habitual late attendance ;
- (g) habitual breach of any law applicable to the establishment ;
- (h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline ;
- (i) habitual negligence or neglect of work ;
- (j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of two per cent of the wages in a month ;
- (k) wilful slowing down in performance of work or wilful abetment or incitement thereof ;
- (l) disclosing to any un authorised person any information in regard to the processes of the establishment which may come into the possession of the workmen in the course of his work ;
- (m) gambling within the premises of the establishment ;
- (n) smoking within the Premises of the establishment where it is statutorily prohibited ;
- (o) striking work or inciting others to strike work in contravention of the provision of any law or rules having the force of law.

(3) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and given an opportunity to explain the circumstances alleged against him. The approval of the mana-

ger of the establishment or where there is no manager, of the employers is required in every case of dismissal and when circumstances appear to warrant it, the manager or the employer may institute independent enquiries before dealing with charges against a workman.

(4) an order of the suspension shall be in writing and may take effect immediately on delivery to the workman. Such order shall set out in detail the alleged misconduct and the workman shall be given an opportunity of explaining the circumstances alleged against him. If on enquiry the order is confirmed, the workman shall be deemed to have been absent from duty for the period of suspension and shall not be entitled to any remuneration for such period. If, however, the order is rescinded the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received, if he had not been suspended.

(5) In awarding punishment under the Standing Orders, the manager shall take into account the gravity of misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the manager shall be supplied to the workman.

19. **Complaints.**—All complaints arising out of employment including those relating to unfair treatment or workful exaction on the part of the employer or his agent, shall be submitted to the manager or other persons specified in this behalf with the right of appeal to the employer.

20. **Certificate of Termination of Service.**—Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

21. **Liability of Manager.**—The manager of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders.

22. **Exhibition of Standing Orders.**—A copy of these orders in Hindi or English and in the principal languages of the workman shall be posted at the manager's office and on a notice board maintained at or near the main entrance to the establishment and shall be kept in legible condition.

## SCHEDULE II

### FORM I

[Vide rule 6 of the Rajasthan Industrial Employment  
(Standing Orders) Rules, 1963]

Dated the .. .....19.....

To

The Certifying Officer

&

The Labour Commissioner,  
Government of Rajasthan,  
Jaipur.

Sir,

Under the provisions of section 3 of the Industrial Employment (Standing Orders) Act, 1946, I enclose five copies of the draft standing orders proposed by me for adoption in..... (name of the industrial establishment)

(Place)

(Postal Address)

an industrial establishment owned/controlled by me, with the request that these orders may be certified under the provisions of the Act. I also enclose a statement giving the particulars prescribed in rule 7 of the Rajasthan Industrial Employment (Standing Orders) Rules, 1963.

I am etc.,

(Signature).....

Employer

Manager.

### FORM II

{Vide Rule 8 of the Rajasthan Industrial Employment  
(Standing Orders) Rules, 1963<sup>1</sup>

Notice Under Section 5 of the Industrial  
Employment (Standing Orders) Act, 1946

Office of the Certifying Officer,  
Rajasthan, Jaipur

Dated the .. .. 19 ..

I,..... Certifying Officer, Rajasthan, Jaipur forward herewith a copy of the draft standing orders proposed by the employer for adoption in the.... industrial establishment and submitted to me for certification under the Industrial Employment (Standing Orders) Act, 1946. Any objection which the workmen may desire to make to the draft Standing Orders, should be submitted to me within fifteen days from the receipt of this notice.

(Certifying Officer.)

Seal

To

The Secretary,

Representative elected under rule 6.

Name.....  
Occupation.....  
Industrial.....  
Establishment .....

FORM III

[Vide Rule 16 of the Rajasthan Industrial Employment  
(Standing Orders) Rules, 1963.]

Industrial Employment (Standing Orders)  
Act, 1946, Section 8.

Register———Part I.  
Industrial Establishment

Date of the despatch of the copy of standing orders authen- ticated under sec. 50 for the first time.	Date of filing appeal.	Date and nature of decisions.	Amendments made on appeal if any.	Date of the despatch of the copy of standing orders as settled on appeal.	Any notice subsequently given or received on any amendment.	Results.
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FORM IV

[Vide rule 7 of the Rajasthan Industrial Employment  
(Standing Orders) Rules, 1963.]

To  
The Certifying Officer,  
Rajasthan, Jaipur.

Sir,

Under the provisions of sub-section (4) of section 3 of the Industrial Employment (Standing Orders) Act, 1946, we enclose copies of the draft standing orders jointly proposed by the industrial establishments specified in the Annexure A, with the request that these orders may be certified under the provisions of the Act and the rules made thereunder.

2. We also furnish in Annexure B, the particulars prescribed in rule 7 of the Rajasthan Industrial Employment (Standing Orders) Rules, 1963 and the matters set out in the schedule to the Act as far as applicable in respect of each of the industrial establishments specified in Annexure A, which are intended to be adopted as the joint standing orders.

3. A copy of the resolution in pursuance of which we are authorised to make this application for the joint draft standing orders is enclosed, as Annexure 'C'.

Yours faithfully,

S.No.	Signature of employers/ Manager	Representative Secretary, etc. Association	Capacity of the	President/ employers
1.				
2.				
3.				
4.				
Etc.				

Note.—The number of copies of draft orders to be sent should be equal to the number of trade unions of which the workmen in any of the industrial establishments are members plus the members of the establishments, whose workmen are not members of any trade unions, plus five.

Thus, if out of 20 industrial establishments, the workmen of 6 are members of one trade union, the number of copies required will be 1 plus (20—6) plus 5=20.

## Annexure 'A'

S.No.	Name of Industrial establishment	Place	Postal address	Signature of the employer
1	2	3	4	5

## Annexure 'B'

S.No.	Name of industrial establishment	Total No. employed	Number of permanent workmen	No. of temporary workmen
1	2	3	4	5

No. of Badlies of substitutes	No. of probationers	No. of apprentices	No. of trade union (s) if any, to which the workmen belong	Remarks.
6	7	8	9	10

## Annexure 'C'

(Copy of the resolution)

[Pub. in Raj. Gaz. Part IV (Ga) Dt. 2-7-1964]

*Notifications under*

# INDUSTRIAL EMPLOYMENT ( STANDING ORDERS ) ACT, 1946

*Published in Raj. Raj-patra Vol. 2 No. 101 Dated 13-1-51 part 1 at page 742 :*

Labour Department.

## NOTIFICATION.

Jaipur, January 5, 1951.

*No. 2483/Lab.*—In pursuance of clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), as adapted to Rajasthan, by the Rajasthan Adaptation of Central Laws Ordinance, 1950, the Government of Rajasthan is pleased to appoint Hon'ble Shri K. L. Bapna, Prime Judge of the High Court of Rajasthan, to exercise in the whole of Rajasthan the functions of an appellate authority under the said Act.

By order of  
His Highness the Rajpramukh,  
R. N. DEY,  
Secretary to the  
Government of Rajasthan,  
Labour Department.

*Notifications under*

**INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946.**

*Published in Raj. Raj-patra part 1 (b) dated July 9, 1959 at page 207*

Jaipur, June 3, 1959.

No. F. 3 (57)/Lab/59.—In pursuance of section 13 A of the Industrial Employment (Standing Orders) Act, 1946 (Act No. XX of 1946) the State Government hereby specifies the Labour Court constituted *vide* Government Notification No. D. 2585/F. 4 (2) Ind. (c)/59-2767, dated 16th April, 1959 to be the Labour Court for the purposes of disposing of matters arising under section 13- A of the said Act within the area of its jurisdiction, that is to say the whole of the State of Rajasthan..

*Published in Raj. Rajpatra part IV (c) dated October 15, 1959 at page 774*

*Industries (C) Department*

**NOTIFICATION**

Jaipur August 27, 1959.

No. F. 3 (57)/Lab/59.—In exercise of the powers conferred by section 2 (a) of the Industrial employment (Standing Orders) Act, 1946 (Act No. XX of 1946), the Government of Rajasthan hereby appoints the Labour Court, constituted under Government Notification No. D. 2585/F. 4 (2)/Ind. (C)/59/2767 dated the 16th April, 1959, (published in Rajasthan Gazette, Part IV (C), dated 16-4-59, Extraordinary), as Appellate Authority under the provisions of the above said Act.

By Order of the Governor,  
A. K. ROY,  
*Secretary to the Government.*



*Notifications under*

**INDUSTRIAL EMPLOYMENT (STANDING ORDERS)  
ACT, 1946.**

*Published in Raj. Raj-patra part IV (c) at page 50 :*

Government of Rajasthan

Labour Department

No. F. 3 (11) Lab/62/1038

Jaipur, March 15, 1962.

In exercise of the powers conferred by clause (c) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (Central Act 20 of 1946), the State Government hereby appoints the Deputy Labour Commissioner (Labour Laws) to perform all the functions of a Certifying Officer under the said Act.

This supercedes all previous notifications on the subject in force in any part of Rajasthan.

By order of the Governor,

D. Goswami,

Deputy Secretary to the Government.